

MEETING
STATE OF CALIFORNIA
THE RESOURCES AGENCY
CENTRAL VALLEY FLOOD PROTECTION BOARD

RESOURCES BUILDING
1416 NINTH STREET
AUDITORIUM
SACRAMENTO, CALIFORNIA

FRIDAY, JUNE 20, 2008

8:33 A.M.

JAMES F. PETERS, CSR, RPR
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Mr. Benjamin Carter, President

Ms. Lady Bug Doherty, Secretary

Ms. Rose Marie Burroughs

Mr. John Brown

Ms. Teri Rie

STAFF

Mr. Jay Punia, Executive Officer

Mr. Eric Butler, Senior Engineer

Ms. Virginia Cahill, Legal Counsel

Mr. Dan Fua, Supervising Engineer

Mr. Gary Hester, Chief Engineer

Ms. Lorraine Pendlebury, Staff Analyst

Mr. Geoffrey Shumway, Staff Analyst

DEPARTMENT OF WATER RESOURCES

Ms. Annalena Bronson

Mr. Robert Charney

Mr. Steve Dawson, Acting Chief, Floodway Protection

Ms. Nancy Finch, Staff Counsel

Mr. Samson Haile-Selassie

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APPEARANCES CONTINUED

DEPARTMENT OF WATER RESOURCES

Ms. Mara Noelle

Mr. Jeff Parsons

Mr. Ricardo Pineda

Mr. George Qualley, Chief, Division of Flood Management

Mr. Pal Sandhu, Chief, Levee Repairs Branch

Mr. Kasey Schimke

Mr. Ward Tabor, Staff Counsel

Ms. Terri Wegener

Mr. Kip Young

ALSO PRESENT

Mr. James Baker, United States Army Corps of Engineers

Mr. Paul Brunner, Three Rivers Levee Improvement Authority

Mr. Chris Neudeck, KSN Inc.

Mr. Dante John Nomellini, Reclamation District 17

Mr. Scott Shapiro

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1 PROCEEDINGS

2 PRESIDENT CARTER: Good morning, ladies and
3 gentlemen. If you'll all take your seats, we'll go ahead
4 and start our meeting.

5 Welcome to the meeting of the -- the June meeting
6 of the Central Valley Flood Protection Board.

7 Mr. Punia, could you please call the roll.

8 EXECUTIVE OFFICER PUNIA: Board Member John
9 Brown?

10 BOARD MEMBER BROWN: Here.

11 EXECUTIVE OFFICER PUNIA: Board Member Rose Marie
12 Burroughs?

13 BOARD MEMBER BURROUGHS: Present.

14 EXECUTIVE OFFICER PUNIA: Board Member Lady Bug?

15 SECRETARY DOHERTY: Here.

16 EXECUTIVE OFFICER PUNIA: President Ben Carter?

17 PRESIDENT CARTER: Here.

18 EXECUTIVE OFFICER PUNIA: The rest of the Board
19 members are absent at this time.

20 PRESIDENT CARTER: Okay. With four voting
21 members, we have a quorum, so we'll go ahead and conduct
22 business.

23 On to Item 2, Approval of the Minutes of April
24 18th, 2008.

25 We will entertain a motion to --

1 BOARD MEMBER BROWN: Mr. Chairman?

2 PRESIDENT CARTER: Yes.

3 BOARD MEMBER BROWN: I have one correction on
4 that, if I may.

5 PRESIDENT CARTER: Absolutely. What is that?

6 BOARD MEMBER BROWN: On page 10, about the sixth
7 or seventh line up from the bottom, it says Sulfur Creek.
8 It's Silver Creek.

9 PRESIDENT CARTER: Silver Creek?

10 BOARD MEMBER BROWN: Yes, instead of Sulfur
11 Creek.

12 PRESIDENT CARTER: Okay. Any other changes to
13 the minutes of April 18th, 2008?

14 PRESIDENT CARTER: Okay. We'll entertain a
15 motion to approve as amended

16 BOARD MEMBER BROWN: So moved.

17 SECRETARY DOHERTY: Second.

18 PRESIDENT CARTER: We have a motion and a second.
19 Any discussion?

20 All those in favor indicate by saying aye.

21 (Ayes.)

22 PRESIDENT CARTER: And opposed?

23 Motion carries unanimously.

24 Thank you.

25 On to approval of the agenda for today.

1 Do we have any proposed changes to the agenda,
2 Mr. Punia?

3 EXECUTIVE OFFICER PUNIA: Jay Punia.

4 Item No. 13 on the agenda, Lower San Joaquin
5 River Feasibility Investigation.

6 At the request of the Department of Water
7 Resources, the staff is recommending that this item be
8 removed from the agenda. The Department staff has
9 informed us that U.S. Army Corps of Engineers was supposed
10 so provide them various documents, but that they are not
11 ready. So DWR staff is recommending that this item should
12 be pulled from the June agenda. And we will reintroduce
13 in July.

14 PRESIDENT CARTER: Okay.

15 EXECUTIVE OFFICER PUNIA: And in addition to
16 this, I want to give the Board the status of the consent
17 calendar. And then I will leave up to the Board to make a
18 decision.

19 We have several items on the consent calendar.
20 Items 7B, 7C, 7D, 7F, all the documents were received and
21 all the endorsements required to issue a permit have been
22 received when the agenda was mailed to you.

23 The items 7A, 7E, 7G, 7H, 7I, K, L, M, these are
24 the items which are missing some of the endorsement, like
25 endorsement from a local maintaining agency or endorsement

1 from the U.S. Army Corps of Engineers. However, staff is
2 hopeful that we will get all these endorsements.

3 And Item 7J, when we sent you the information,
4 the compliance with the California Environmental Quality
5 Act was not completed. But since then we have done the
6 findings and the compliance with the California
7 Environmental Quality Act.

8 So that's the status. But staff is still
9 recommending that we should keep everything on the consent
10 and approve it as consent. But it's up to the Board. If
11 they want a briefing on any of these items or if they want
12 to pull it, then we will entertain that.

13 Other than that, there are no other changes on
14 the agenda.

15 SECRETARY DOHERTY: I have a question for you.

16 On K, we were requested to not issue a permit
17 until all the leases were signed. So are there copies of
18 all the leases?

19 EXECUTIVE OFFICER PUNIA: I think I need to defer
20 back to the staff.

21 Eric, maybe could you give us more update.

22 SENIOR ENGINEER BUTLER: Good morning. This is
23 Eric Butler, Staff member for the Board.

24 Ms. Doherty, I'm not sure what you mean by
25 leases. The one thing that we were missing was an

1 agreement between Meridian Farms Water Company and a local
2 land holder. And that agreement was received this week by
3 Mr. Steve Dawson. So that box, if you will, can be
4 checked off and we're ready to move forward.

5 SECRETARY DOHERTY: Okay. And then the other
6 question I have, when you say to abandon, what do you mean
7 by the word "abandon"?

8 SENIOR ENGINEER BUTLER: Again, this is with
9 respect to 7K?

10 SECRETARY DOHERTY: Well, on 7K here it says
11 abandon the pumping plant. And so I don't know what you
12 mean by abandon. Are you just going to leave it right
13 there on the river or is it going to be removed and the
14 site repaired? So before we can proceed with that one,
15 I'd want to know that.

16 SENIOR ENGINEER BUTLER: Just one moment. Let me
17 call Steve Dawson to answer that question.

18 PRESIDENT CARTER: What I'm reading from the
19 staff report was that you abolish the existing pumping
20 planted and then abandon the pipe. So to me that means
21 you get rid of the pumping plant and then you abandon the
22 pipe.

23 FLOODWAY PROTECTION ACTING CHIEF DAWSON: Steve
24 Dawson, Floodway Protection Section.

25 In regards to abandonment of that pumping

1 station, it will be removed entirely and the area
2 restored, and moved approximately a mile away and then
3 reconstructed.

4 SECRETARY DOHERTY: Okay. That's what I wanted
5 to know. Thanks, Steve.

6 PRESIDENT CARTER: Thank you.

7 Any other questions or any other changes to the
8 agenda as published?

9 SECRETARY DOHERTY: So B, C, and F are what, Mr.
10 Punia?

11 EXECUTIVE OFFICER PUNIA: B, C, D, and F, all the
12 endorsements were provided to you when we mailed the
13 package. Whereas on 7A, 7E, 7G, 7H, I, K, L, M, we were
14 missing some of the endorsement. But we are hopeful that
15 we will get it before we issue them the permit.

16 SECRETARY DOHERTY: Okay.

17 PRESIDENT CARTER: And you made no mention of 7
18 N, the easement in Fairfield-Suisun Sewer District.

19 SECRETARY DOHERTY: Everything was there on that
20 one.

21 EXECUTIVE OFFICER PUNIA: Maybe I will ask.

22 Eric, could you update the Board regarding the
23 status of 7N. It was not included in our listing here in
24 the information you gave me.

25 SENIOR ENGINEER BUTLER: Yeah, 7N is not a permit

1 application. It is approval of an easement. And Mr.
2 Linus Paulus from DWR is in charge of that item. I
3 believe he was here -- yeah, he is here. I believe that's
4 still on the calendar, Jay, to my knowledge.

5 PRESIDENT CARTER: And staff report is complete,
6 all the documentation and all -- any endorsements we might
7 need for that easement are all in place?

8 EXECUTIVE OFFICER PUNIA: Yes.

9 SENIOR ENGINEER BUTLER: The people are nodding
10 yes.

11 PRESIDENT CARTER: Okay.

12 LEGAL COUNSEL CAHILL: Could I clarify.

13 So what you're doing at this moment is you're
14 approving the agenda, you're going to leave all of these
15 on consent; but when you get to consent the motion is
16 going to say to grant the permits but conditioned on
17 having everything in place first, is that --

18 EXECUTIVE OFFICER PUNIA: That's correct.

19 LEGAL COUNSEL CAHILL: Thank you.

20 PRESIDENT CARTER: Any other suggested changes to
21 the agenda as published?

22 So to my understanding, we're leaving all items 7
23 A through N on the consent calendar; we have a request
24 from DWR to remove Item 13 from the agenda for today to
25 postpone to a future date, and that is it.

1 We'll entertain a motion to approve as amended.

2 SECRETARY DOHERTY: I'll make a motion that we
3 approve the agenda as amended.

4 BOARD MEMBER BURROUGHS: I'll second that.

5 PRESIDENT CARTER: We have a motion and a second.

6 Any further discussion?

7 All those in favor indicate by saying aye.

8 (Ayes.)

9 PRESIDENT CARTER: And opposed?

10 Motion carries unanimously.

11 Very good.

12 At this time, we're on to Item 4, which is Public
13 Comment. This is a time when the Board invites any member
14 of the public to come up and address the Board on
15 non-agendized items. And so we do ask you to please fill
16 out -- there are little 3 by 5 cards on the table at the
17 entrance to the auditorium or they're available here at
18 the front -- just so that we know to recognize you.

19 I do not have any cards at this point. Is there
20 anyone out there in the public that wishes to address the
21 Board on non-agendized items today?

22 Very good. Then we'll move on.

23 Report of the activities of Department of Water
24 Resources. Mr. Qualley, is he -- I didn't see --

25 EXECUTIVE OFFICER PUNIA: George may be running

1 late. We can start with Kasey Schimke. Then when George
2 shows up, we'll move to that item.

3 PRESIDENT CARTER: Okay. So a part of that is
4 the Legislative Update.

5 Mr. Schimke, good morning. Welcome.

6 MR. SCHIMKE: Good morning. Thank you.

7 Kasey Schimke with the Department of Water
8 Resources.

9 There are a few items I'd like to update you on
10 with regard to legislative activities. First and
11 foremost, the Conference Committee, working on the Fiscal
12 Year '08-'09 budget, approved the April finance letter
13 requesting funding and positions to assist the Board in
14 the new responsibilities that were given to the Board in
15 AB 5, SB 5, and the three or four other bills. That all
16 related to the flood protection package that was passed
17 last year. So that just -- that just occurred this last
18 Friday. And I wanted to make sure that we got you that
19 information that things are moving ahead in that sense to
20 provide that additional funding as necessary and as
21 identified by the Board.

22 An issue we had spoken about previously was
23 Senate Bill 1360 by Senator Machado. That was seeking to
24 make some technical corrections to those bills that had
25 passed last year. With the Board's help in working with

1 the Department, we had put together an official position
2 and presented it to the author's office middle of late
3 last month. The bill was amended in committee to address
4 those concerns, primarily the ex parte communication,
5 clarifying when that took effect; also dealing with the
6 concerns that had been raised by the Board about the
7 evidentiary hearing process and what constituted -- what
8 type of actions required a full evidentiary hearing. That
9 amendment was also taken.

10 I believe legal counsel has identified another
11 minor technical fix that needs to take place. But I don't
12 foresee that that should be a serious problem in
13 correcting.

14 So you are also aware though, however, in
15 addition to addressing the concerns that had been raised
16 by the Board and by the Department, an amendment was also
17 taken, as you recall, from last year's SB 17 and AB 5. It
18 set up a new process whereby Board members are confirmable
19 by the Senate, and set up a new system of the appointment
20 process of that.

21 This amendment that was taken takes another step
22 towards that and would basically require the Governor's
23 Office to begin that by January 31st, 2009. It
24 effectively sets that as the date where new appointments,
25 reappointments need to have begun by that point. So the

1 Department does not have an official position on that
2 particular aspect of the bill. We're still trying to work
3 through some of those issues; and obviously we will
4 continue to work with the Board as we have been on that in
5 particular.

6 But those are pretty much the two major issues,
7 your budget funding as well as SB 1360.

8 Were there any questions?

9 PRESIDENT CARTER: Thank you.

10 Any questions for Mr. Schimke?

11 BOARD MEMBER BURROUGHS: In regards to the
12 amendment and the recommendation -- or the amendment of
13 January 2009, if any of the Board members have specific
14 comments in regards to that, who would you recommend we
15 direct those comments to?

16 MR. SCHIMKE: I think the best process probably,
17 you know, to figure out internally to talk, I know we have
18 been very -- communicating very closely on this bill with
19 Jay and with Ms. Cahill as well as President Carter, you
20 know, making sure that we are speaking in essence on the
21 same issues. And I think making sure that that gets
22 filtered through, I would be happy to share your comments.
23 I'm sure Jay would also have the ability to speak to
24 Resources Agency and/or the Governor's Office about any
25 comments that the Board might have.

1 BOARD MEMBER BURROUGHS: Thank you.

2 Do you have any comments Doris Matsui's proposal
3 that came out yesterday?

4 MR. SCHIMKE: Not at this time. Having had very
5 little time to actually look at some of the issues, we
6 don't.

7 BOARD MEMBER BURROUGHS: Thank you.

8 SECRETARY DOHERTY: I have a problem with this SB
9 1360. On January 31st all Board members are off and then
10 new appointments are going to be made. All I can say is
11 that when this happened three years ago, and we all came
12 on at the same time, there was a lack of continuity. It
13 was difficult to learn all of the things that there were
14 to learn at that time. I think it would be a terrible
15 mistake to simply replace the whole Board again, as was
16 done. I think it took a lot of courage on
17 Schwarzenegger's part. But I would like to see some
18 continuity retained on this Board with so many going and
19 so many coming.

20 So as it is now -- and I think the Central Valley
21 Flood Control Association is also opposed to this latest
22 bill, replacing all Board members at one time.

23 MR. SCHIMKE: And we'll need to do some checking
24 with the actual language of the amendment. But as I
25 understand it, it doesn't require all Board members to go

1 and have new appointments. The Governor has the
2 discretion to reappointment or to appoint -- to fill any
3 vacancies that may exist.

4 So I think you're right. That's a good message
5 to send about concerns over the continuity.

6 PRESIDENT CARTER: I think what the language
7 says, the terms expire. And so essentially if the
8 Administration hasn't taken any action as of that date,
9 then the existing Board goes away. The Governor does have
10 the discretion to reappoint, either before or after that
11 date, members that are sitting on that, that will then be
12 subject to the Senate confirmation.

13 But I think Lady Bug makes a good point, just
14 because part of the impetus of some of the language in the
15 new bill in terms of setting terms and whatnot, and
16 they're staggered terms, is precisely to address that
17 issue. And so we don't want to be shooting ourselves in
18 the foot by creating a problem we're trying to fix again.

19 BOARD MEMBER BURROUGHS: I would agree with that.

20 BOARD MEMBER BROWN: Mr. Chairman?

21 I know at the State Water Resources Control Board
22 there's a term expiration period of January 1, or
23 something like that. But then there's a 60- or 90-day
24 grace period, which takes it up I think to April 15th on
25 the State Water Board, the way they do their reappointment

1 process. And then if they're not reappointed by the
2 April -- it's March 15th, I guess it is -- March 15th,
3 then they're not reappointed.

4 So you may look at how the State Water Board
5 handles their reappointments. And there is a grace period
6 in there for the Governor to act if he wishes to make
7 reappointment.

8 PRESIDENT CARTER: Appreciate that.

9 SECRETARY DOHERTY: So the way this one reads, if
10 you're not reappointed, it remains vacant, right? And so
11 you're saying that you would continue to serve Mr. Brown
12 until --

13 BOARD MEMBER BROWN: No, actually if you're not
14 reappointed by that grace period, you are off the Board.

15 SECRETARY DOHERTY: Right. But at least there's
16 a grace period?

17 BOARD MEMBER BROWN: Yes, there's a grace period.
18 And you may want to make that clarification. Then, again,
19 take a page out of their book if that helps you.

20 MR. SCHIMKE: We'll note that.

21 PRESIDENT CARTER: Any other questions for Mr.
22 Schimke?

23 Thank you very much for coming.

24 MR. SCHIMKE: Thank you.

25 PRESIDENT CARTER: Mr. Qualley, are you ready for

1 the report of the activities of the Department of Water
2 Resources.

3 DIVISION OF FLOOD MANAGEMENT CHIEF QUALLEY: I
4 am. I apologize for walking in at the last second like
5 this.

6 PRESIDENT CARTER: No problem.

7 DIVISION OF FLOOD MANAGEMENT CHIEF QUALLEY: But
8 welcome.

9 PRESIDENT CARTER: Good morning.

10 DIVISION OF FLOOD MANAGEMENT CHIEF QUALLEY:
11 Yeah, good morning, President Carter, members of the
12 Board. I'm pleased to be here today to present the report
13 of activities of DWR.

14 We'll start off, as we normally do, with water
15 conditions. But that's obviously not good news from the
16 water supply standpoint at this stage. I won't belabor
17 you with all the numbers. But, you know, basically we're
18 at about 80 percent of average to date on precip, as we
19 are in reservoir storage. And the April to July runoff in
20 the water supply basins is not in good shape either about
21 78 percent in the Kings River and all the way down to 49
22 percent on the Tule River.

23 And as you all know, the spring turned out to be
24 extremely dry. We had a pretty good January and February,
25 and then it basically shut off. In fact, the combined

1 March through May total precipitation was only 3.4 inches,
2 which is the driest since 1921. So just an extremely dry
3 period in the latter part of our, you know, what should be
4 a part of the year where we're still getting some precip
5 that will add to our overall water supply benefit.

6 So that led to the Governor -- I inserted the
7 item in here about the Governor officially proclaiming a
8 drought on June 5th, which in his Executive Order that
9 triggered a number of actions that he asked the Department
10 of Water Resources to move forward with, one of which was
11 to facilitate water transfers to respond to emergency
12 shortages, to work with the local districts to help them
13 improve water efficiency and conservation, and basically
14 just help coordinate their activities to improve the
15 overall situation.

16 Also to coordinate with other state and federal
17 agencies to assist water suppliers and identify risks to
18 water supply and help some of the farmers suffering
19 losses.

20 And, finally, to expedite existing grant programs
21 to help local water agencies and agencies conserve.

22 So certainly the Department is following up on
23 those activities per the Executive Order.

24 Moving on to the Flood Project Integrity and
25 Inspection Branch. The 2007 annual report is available.

1 We did have a mistake in the information that was
2 originally provided to you, and I think the folder in
3 front of you should have the correction. And the
4 correction is also on the website.

5 There was an error in identifying the website
6 where the report can be viewed. And it will be July 1st,
7 2008, before the report is actually available on that
8 website.

9 And as you were informed in kind of a
10 pre-briefing back in March, there were -- even though
11 maintenance efforts had generally showed improvement from
12 last year to this year because of the new methodology to
13 do the ratings, which Jeremy Arrich explained to you at
14 the March meeting, the unacceptable ratings for 64 of the
15 107 maintaining agencies were unacceptable.

16 But as you also know of course, we are working
17 with the Corps of Engineers. And I think you'll be
18 hearing -- well, the other Board members will be hearing
19 an update from Jay and President Carter and Member Rose
20 Marie Burroughs on the most recent discussions with the
21 levee roundtable. So I won't mention anything on that at
22 this time.

23 Moving to the Flood Project Modifications and
24 Permits Branch. The first item relates to the funding
25 agreements. As you know, we had gotten final approval on

1 the funding agreement for the TRLIA project, the setback
2 levee in Yuba county. And just this past week we got
3 final approval from Department of General Services for the
4 other three early implementation projects for SAFCA:
5 Levee District 1; the Star Bend setback; and for
6 Reclamation District 2103, the project up in wheatland.

7 TRLIA now has all three segments of their project
8 underway. And I'm sure Pal will be giving you a thorough
9 update on those activities.

10 There was a groundbreaking ceremony on May 28th.
11 And I was torn on that date because that was the same day
12 as a field trip to the Orestimba project that Colonel
13 Chapman and others went on. So I went on the trip to
14 Orestimba that day. And Dave Gutierrez and Eric Koch
15 attended the groundbreaking.

16 The other work is getting underway for the -- you
17 know, for LD 1 and RD 2103. LD 1 actually won't start
18 construction on the setback levee until next year. But
19 there's a lot of activities to get it in place prior to
20 that, and they'll be letting a contract for this summer
21 for utility relocations, then we proceeding to be ready to
22 really move on the construction work in 2009.

23 And RD 2103 in Wheatland, they are, you know,
24 getting ready to issue their next contract. And they
25 expect to be complete in October of this year with that

1 project.

2 And SAFCA, of course they completed their Phase 1
3 of their Natomas Cross Canal work in '07. They're opening
4 bids for the next phase -- in fact, they have opened those
5 bids. And they will be moving forward with that work on
6 the next phase for Natomas Cross Canal this year.

7 The next item, the local levee item, the heading
8 isn't quite right. It should say Local Levee Evaluation
9 Program and Local Levees Urgent Repair Program. And those
10 two programs together, how we refer to as the Local Levee
11 Assistance Program, and we make that reference in the
12 website. So sorry for the confusion on the heading. So
13 basically those two programs are combined into one
14 program.

15 The Local Levee Urgent Repair Program is to
16 assist flood controlled agencies with evaluations on
17 urgent repairs to levees and other flood control
18 facilities that are critically eroded or unstable. And
19 there's 40 million available for that program this fiscal
20 year.

21 And The other program for the evaluations is to
22 assist local flood control agencies with geotechnical
23 exploration of existing local levees, particularly those
24 at risk of losing FEMA certification and also evaluation
25 of the collective data with regard to stability, seepage,

1 erosion, and underseepage. And there's \$20 million
2 available for that program.

3 The application deadline is June 30th, 2008 for
4 these programs. And we'll be anticipating a number of
5 applications. And we'll process them as quickly as we can
6 so that the grant money can get out for this important
7 work to continue.

8 On the Project Development Branch. We have
9 summaries of a number of the projects. A joint federal
10 project at Folsom's, you know, probably the biggest one.
11 That work is going to be going on for the next seven
12 years, with the scheduled completion around 2015. And,
13 you know, it discusses a number of the items here that are
14 underway. And you'll be hearing from Robert Charney later
15 today about our environmental document that's being put
16 forward for your action on part of this project.

17 Folsom Dam Raise. That really won't get active
18 on the design part until 2011. But there are some
19 elements of the environmental aspect of this that the
20 Corps is doing some preliminary work on, primarily
21 involves looking at temperature shutters, you know, so
22 they can maybe get ahead of the game in doing some of the
23 evaluation on that before, you know, the full design
24 effort starts.

25 American River Common Features. That's been

1 underway for a number of years. Talks about some of the
2 different work that's planned for this year, the sites
3 that were authorized under WRDA 99, they'll be getting
4 underway. And that's really some gaps that were left in
5 the slurry wall when the original contracts for 24 miles
6 of slurry wall were put in place. They left gaps at where
7 there were some, you major structures. They were just too
8 complicated to try to do that work at the same time as the
9 rest of the slurry wall work was going on. So these will
10 be going through and filling those gaps.

11 And also the project for designing and for
12 raising and widening levee sections on Jacob's Lane will
13 be going forward. We've been doing a lot of coordination
14 internally in DWR and with the Corps and with SAFCA to get
15 our right-of-way certifications in place. Our own
16 right-of-way group is very -- you know, very much stressed
17 with all the demands on them for a variety of projects,
18 not all of them flood management. So we've been working
19 collectively with all the organizations to bring all the
20 resources to bear that we can so that all these important
21 projects will get certification in a timely manner. And
22 We've been getting great cooperation from everyone on
23 that.

24 South Sacramento Streams Project is moving
25 forward. A number of construction activities will be

1 taking place this year.

2 West Sacramento Project. The Corps is nearing
3 completion on the geotech analysis for the repair of two
4 levee slips. And that construction possibly could get
5 done this year. But it's probably more likely it's going
6 to happen in '09.

7 Yuba River Basin Project. We had the F4
8 conference, which is kind of the final alternatives review
9 conference at the end of May in 2008. And the Corps's
10 conclusions in their GRR fairly closely match, you know,
11 what they're recommending, you know, for their official
12 recommendations from the GRR. They match fairly closely
13 with what is actually being constructed by TRLIA. There
14 are of course a few differences, and we're continuing to
15 work with the Corps so that -- though they're as close as
16 possible, so that we maximize the Section 104 credits that
17 we could receive for that work.

18 And the Marysville Ring levee project, that's
19 moving forward too. And if everything falls into place,
20 we could conceivably construct that in 2010. We're all,
21 you know, trying to move that forward.

22 Same with Mid-Valley Area Levee Reconstruction
23 Project. It shows the schedule that we're working towards
24 on that, you know, to finish up with some of the work on
25 that. There's been a lot of work done already. And we're

1 hoping that we're moving on a schedule that will get
2 additional construction work in 2010. It's depends on the
3 results of a limited reevaluation that's underway right
4 now.

5 Sutter County Feasibility Study. We've been
6 cooperating with the locals and the Corps on that to move
7 that forward. Hopefully moving on a schedule to where we
8 can get that study completed within three years, so that
9 could be the basis for an improvement project in Sutter
10 County.

11 Similarly, on Lower San Joaquin River, we're
12 again working with the Corps and the locals. We just got
13 a new version of the Project Management Plan, and we'll be
14 having a meeting very soon. It's going to be I think the
15 first week of July to get everyone together and kind of
16 nail that down so we can execute the agreements on that.
17 Hopefully at your July Board meeting is what we're
18 shooting for.

19 Lower Cache Creek, Woodland. That's another
20 feasibility study that we're working with the locals and
21 the Corps on to get that study underway.

22 And finally the West Stanislaus, Orestimba Creek.
23 I mentioned earlier the site visit. And that was really
24 spawned by a request from Congressman Dennis Cardoza. He
25 wanted to get a briefing from the Corps and the state and

1 the locals on the progress of that study. And there was,
2 you know, support expressed both by the congressman and
3 Colonel Chapman to be moving forward with a study. That
4 is moving towards identifying the National Economic
5 Development Plan in September. And so we'll -- and then
6 after that, the Corps can proceed with more of, you know,
7 finishing up the feasibility study. And if things stay on
8 schedule, we should be able to have the F4 milestone
9 conference, which is kind of your -- that's similar to the
10 one we just had on Yuba basin, where it really lays out
11 your alternatives and the alternatives -- you know, how
12 the alternatives were evaluated. That's scheduled for
13 early 2009.

14 Hamilton City is another project that the Corps
15 is, you know, moving forward on their interior drainage
16 study and a number of other activities. And they expect
17 to have their 60 percent design by the end of the year --
18 end of the fiscal year. And we'll be having more
19 discussions with the locals about how the costs will be
20 covered for the project.

21 SECRETARY DOHERTY: Mr. Qualley?

22 DIVISION OF FLOOD MANAGEMENT CHIEF QUALLEY: Yes.

23 SECRETARY DOHERTY: On the Hamilton City Project,
24 "a formal biological opinion should be available by
25 mid-June." Is that ready yet?

1 DIVISION OF FLOOD MANAGEMENT CHIEF QUALLEY: You
2 know, when I was going back through this last night I saw
3 that. And I just didn't have a chance this morning to
4 check. But I'll make sure that's still on track.

5 SECRETARY DOHERTY: Okay. I was just curious.

6 DIVISION OF FLOOD MANAGEMENT CHIEF QUALLEY:
7 Statewide Grants Branch. Of course we've been
8 working on regulations to comply with Assembly Bill 1147.
9 And those are within -- they're the 45-day public comment
10 period that's underway right now. And the deadline for
11 comments on that is July 28th. And so we'll be -- we had
12 one public meeting on that. And there's a couple of other
13 public meetings that -- there's a schedule. We held one
14 on June 24th and there's another one scheduled for July
15 29th here in the auditorium, which would be the day after
16 comments close. Actually the one on the 29th I think is
17 to accept any additional comments that somebody might want
18 to submit.

19 Floodplain Management Branch. You'll be hearing
20 from Ricardo in a few minutes about the Senate Bill 5 -
21 best available maps. The number of other activities that
22 are cited here in the report, a number of contracts that
23 had been let recently, you know, for very sizable AE
24 contracts for floodplain evaluation, were let in January.
25 And, you know, describes a number of other contracts for

1 topographic surveys. And we really are getting good
2 coverage of the Valley with the LIDAR surveys that have
3 been taking place and also digital photos with very high
4 definition.

5 So we're definitely getting the information
6 pulled together that's going to be needed to proceed with
7 the Central Valley Flood Protection Plan.

8 Levee Repairs Branch. In the interest of time, I
9 won't go through a lot of detail on that. A number of
10 these activities have been in progress, and this updates
11 the latest status of the items. I'd be happy to go into
12 more detail on any of them if you have a particular
13 interest for that.

14 And the Levee Evaluations Branch, I'll just
15 basically say that, you know, things are moving forward on
16 schedule. And they are having meetings with the local
17 entities as they get their draft reports put together.
18 You know, their Phase 1 Geotechnical Evaluation Reports,
19 they always have a public meeting where they present the
20 results of that. And then they have a formal draft that's
21 put together that's circulated to the stakeholders so they
22 can, you know, comment on the written draft. And there's
23 a number of those that are in that stage where they either
24 have recently gone to the stakeholders or will soon go to
25 the stakeholders.

1 And with that, I'll end my report. And I'd be
2 happy to respond to any questions you may have.

3 BOARD MEMBER BROWN: Mr. Chairman?

4 PRESIDENT CARTER: Mr. Brown.

5 BOARD MEMBER BROWN: Let's see. Did I miss
6 Arroyo Paso Haro and Silver Creek? I thought you were
7 doing something on those too?

8 DIVISION OF FLOOD MANAGEMENT CHIEF QUALLEY: Not
9 from a flood management standpoint. The State Water
10 Project side of the house, of course they've had Arroyo
11 Paso Haro studies going on for a long time, you know, with
12 respect to keeping the sediment out of the aqueduct. But
13 that's not managed out of Division of Flood Management.

14 BOARD MEMBER BROWN: One other thing, George. I
15 wonder with the Governor's new Executive Order and some of
16 the emphasis that's being placed upon water conservation
17 now, is that -- I know you're proceeding ahead with the
18 Orestimba study. I'm sorry I missed that when I was down
19 there. But I'm familiar with the project regardless. And
20 I know how difficult it is to change the Corps once
21 they're pointed in a direction of a dry dam, as an
22 example, for flood control purposes only.

23 But I think you'll find if you do some research
24 on some of your prior studies that a dam of about 2 to
25 300,000 acre-feet can be constructed on Orestimba and

1 develop water yield out of the Delta without having to
2 build a peripheral canal. And I know the Department spent
3 a lot of money studying Los Banos Grande and tried to
4 build Los Banos Grande, which required a peripheral canal
5 and an additional 2 to \$300 an acre-foot cost per water
6 yield.

7 DIVISION OF FLOOD MANAGEMENT CHIEF QUALLEY: I
8 did get in contact --

9 BOARD MEMBER BROWN: I'd suggest to you that
10 maybe Orestimba is one of the last opportunities we have
11 on that west side to get some water yield. And if we just
12 proceed ahead on the flood control only, we may be passing
13 up a rare opportunity.

14 DIVISION OF FLOOD MANAGEMENT CHIEF QUALLEY: I
15 did have a conversation with Steve Roberts of our surface
16 water storage group. And he pointed out that Orestimba
17 and a number of other ones were looked at, you know, by
18 CALFED when they were looking at various surface water
19 options. And it was screened out from a water supply
20 standpoint for, you know, a variety of issues that would
21 make that difficult to develop. I could go through that
22 in more detail if you --

23 BOARD MEMBER BROWN: The only thing that might
24 throw it back into the analysis is that if you wanted to
25 build a dam on the west side -- and I know the Department

1 did by pursuing Los Banos Grande diligently -- but also
2 recognizing in -- even in your report it stated that a
3 peripheral canal was necessary in order to fill it to get
4 the yield out of it to justify a reservoir of that size
5 and yield. And the last time I looked at Orestimba, it
6 did not require a peripheral canal, which adds a
7 considerable amount to the water cost.

8 I think it's worthy of consideration if you can
9 work that in some way. I would strongly recommend at
10 least you look at it and make sure that we're not missing
11 an opportunity.

12 DIVISION OF FLOOD MANAGEMENT CHIEF QUALLEY: No,
13 I'll talk some more with our folks that are handling, you
14 know, both the Delta conveyance and, you know, just all of
15 the Delta issues to enhance the water supply.

16 BOARD MEMBER BROWN: Thank you.

17 PRESIDENT CARTER: Any other questions for Mr.
18 Qualley?

19 BOARD MEMBER BURROUGHS: Thank you.

20 On the levee evaluations you had on the June 17th
21 and 18th, do you -- could you expand a little bit more on
22 what was presented at that meeting?

23 DIVISION OF FLOOD MANAGEMENT CHIEF QUALLEY: The
24 levee evaluations -- oh, the Consulting Board meeting. I
25 didn't happen to go to this version of the Consulting

1 Board. I don't know if anybody's in the audience that was
2 there at that one. I went to the previous one that they
3 had three months ago. And I just can't give you a summary
4 because I wasn't at that particular meeting. But, you
5 know, they'll certainly have a write-up from the meeting.
6 And I can make sure that Board members get a copy, you
7 know, of the notes or the summary of the meeting that took
8 place.

9 I apologize that I can't do that for you right
10 now.

11 BOARD MEMBER BURROUGHS: Thank you.

12 SECRETARY DOHERTY: Mr. Qualley?

13 DIVISION OF FLOOD MANAGEMENT CHIEF QUALLEY:

14 Yeah.

15 SECRETARY DOHERTY: I have a question also about
16 the evaluations. Let's say you make evaluations in the
17 beginning of April. Is that approximately when they're
18 made?

19 DIVISION OF FLOOD MANAGEMENT CHIEF QUALLEY: The
20 evaluations we're talking about here, the geotechnical
21 evaluations where they're doing borings -- I mean it's
22 like a year-round process to where they're getting
23 information on, you know, the internal integrity of both
24 the levee and the foundation. So, you know, there isn't a
25 seasonal timeline for that.

1 SECRETARY DOHERTY: All right. Thank you.

2 PRESIDENT CARTER: Any other questions?

3 BOARD MEMBER BURROUGHS: I'm sorry. I did have
4 one more.

5 In the inspection report, there were 64
6 unacceptable, 18 minimally acceptable and 25 acceptable.
7 Was that what you expected to see?

8 DIVISION OF FLOOD MANAGEMENT CHIEF QUALLEY:

9 Well, yeah, that was consistent with what -- with
10 what Jeremy had reported at the March meeting you know
11 based on the ratings that they use this year was basically
12 focused on readiness for flood season, you know, checking
13 to make sure that there was -- that you could see down the
14 slope and that you didn't have, you know, vegetation or
15 other obstructions in the way that would impede flood
16 fight activities. Under that criteria, there was 64 out
17 of 107 that failed.

18 If you were to have used the exact textbook
19 criteria, you know, for the Corps, all but three would
20 have failed. So that's, you know, one of many reasons
21 that we've been working closely with the Corps and with
22 the Resource Agencies and others on this levee roundtable,
23 you know, to come to, you know, some kind of an
24 accommodation that is reasonable, you know, before we got
25 achievable objectives with -- you know, we're supposed --

1 you know, we and local agencies can do within California
2 that will be, you know, certainly consistent with the
3 goals of flood safety that the Corps have. But the
4 timeline to achieve those criteria is more like in
5 decades. I mean it took many decades to get to where we
6 are with the levee system in California and with the
7 vegetation that exists.

8 And it would take many decades to go -- you know,
9 to move in the other direction.

10 PRESIDENT CARTER: Any other questions for Mr.
11 Qualley?

12 George, I know during our Executive Committee
13 meeting last week we kind of talked about the levees'
14 decertification issues down around the Stockton area and
15 whatnot. And at that time, DWR was not well focused on
16 that issue. That's one thing that really concerns the
17 Board based on our public subcommittee meeting that we had
18 two or three weeks ago.

19 Has the Department thought anymore about ways
20 that they can help those folks? I'm sure we'll talk a
21 little bit about it when Ricardo makes his presentation.
22 But from DWR exec perspective, is the Department focusing
23 any energy on that?

24 DIVISION OF FLOOD MANAGEMENT CHIEF QUALLEY:

25 Well, one of areas of course is to -- in the

1 broader scope of things is to get some additional
2 positions on board to where we can actually, you know, get
3 in and, you know, identifying and doing the research
4 necessary with regard to some of these encroachments to
5 see whether, you know, is there a permit, is there not a
6 permit? You know, basically the background information
7 that's needed to be able to move forward on enforcement.
8 And I believe there is one or two positions coming in on
9 the '08-'09 budget that could be put towards that goal.

10 On the specifics for this particular one, my
11 understanding is that the colonel was not -- I don't want
12 to use the term "not willing." He was just unable to
13 grant an extension for this particular activity. So I
14 personally haven't had any additional discussions on that.
15 But certainly it's a concern of the Department, you know,
16 the difficulties that are being had by the local agencies
17 on this.

18 Probably the best thing we can do for it is to
19 get additional staff that we can at least, you know, get
20 the information out there, so that the local agencies
21 working in concert with the Flood Protection Board, you
22 know, can do what's needed to resolve the encroachments
23 and get them back in shape.

24 PRESIDENT CARTER: Okay. Mr. Punia.

25 EXECUTIVE OFFICER PUNIA: Maybe I can add a

1 little bit what George mentioned. As you may recall, the
2 Board has requested an extension from the U.S. Army Corps
3 of Engineers so that we have until end of this year to
4 address these issues of the Bear Creek and Calaveras
5 River.

6 Colonel Tom Chapman invited us for a meeting.
7 Gary Hester and I attended with him. And he expressed
8 some concerns that the Division is not entertaining our
9 request. But we presented our case on behalf of the
10 locals that we are taking this seriously and trying to
11 address these efforts.

12 Then he conveyed that information back to the
13 Division. And now the Division has sent us a letter back
14 to the District of U.S. Army Corps of Engineers that
15 they're asking additional information before they will
16 consider or forward our request to the headquarters. So
17 the deadline is July, I think -- Gary, middle of July?

18 CHIEF ENGINEER HESTER: Yes, that's correct. We
19 will provide answers to Sacramento District of the Corps
20 by July 9th. And they will respond back to Division by
21 the 15th. The questions relate to what actions will be
22 taken by the county to remove the encroachments and what
23 are the Board actions that will occur if we have
24 encroachments that have been unpermitted. And there were
25 a couple of other follow-up questions to the requests that

1 we submitted back in late March.

2 PRESIDENT CARTER: Okay. And my understanding
3 on -- one of the reasons the Corps is not respective to
4 granting an extension is that they are not pleased with
5 the progress that the state and the locals have made to
6 date, where they had given the area a year's reprieve and
7 nothing had happened in that year. So I think -- I mean
8 to the extent that -- if that really is their motivation
9 or a portion of their motivation and we can demonstrate
10 progress, they may be more receptive to do something.
11 They just don't want to grant an extension and have us sit
12 on our hands for another year and not do anything. They
13 want to see things happen on the ground.

14 DIVISION OF FLOOD MANAGEMENT CHIEF QUALLEY: I'm
15 sure it was explained to the Corps and it was -- I don't
16 know if Steve went there or was at that meeting. But I
17 know that, you know, the locals have actually done a lot
18 on their own within their capabilities. So I would hope
19 the Corps isn't thinking that nothing was done. Maybe
20 they're not satisfied on the state side of things, but
21 certainly, you know, the locals have made, you know, a lot
22 of efforts on it as well.

23 PRESIDENT CARTER: Yeah.

24 Rose Marie, did you have something to add?

25 BOARD MEMBER BURROUGHS: Well, without talking

1 about specifics but just in general, has there been
2 discussion about whether these particular encroachments
3 pose a public safety threat, or if they just aren't in
4 compliance with what's on the books for a rule? And it
5 would seem -- it would seem that if the Corps is wait for
6 a response and now we're in June and the deadline is
7 approaching fast, have we given our best effort forward to
8 try to resolve it?

9 DIVISION OF FLOOD MANAGEMENT CHIEF QUALLEY:

10 Well, with our criteria that we're using to, you
11 know, basically rate on the basis of, you know, whether --
12 not only kind of the observable, you know, condition of
13 the levee based on maintenance and encroachment but more
14 specifically the ability, you know, to flood fight,
15 access, visibility, all those kind of things to flood
16 fight. Many of these encroachments in those areas do
17 impede those kind of things. So in that sense, they are a
18 risk to public safety. I mean if you can't get in during
19 a high water situation and a boil is developing or some
20 other urgent situation, if you can't get in -- well, first
21 of all, if you can't see it or inspect it well enough to
22 know whether or not something is going wrong and then,
23 secondarily, if you can't get in to do something about it
24 because of, you know, something being in the way, whether
25 it's vegetation or some other kind of encroachment, then

1 by definition it is a risk to public safety.

2 PRESIDENT CARTER: Okay. Given the magnitude of
3 the problem and the potential magnitude of money that the
4 locals -- local homeowners will be spending on insurance
5 should they be forced into that situation, it should would
6 be nice to be able to put some of that money into
7 prevention as opposed to just insurance payments that will
8 take care of people after it happens -- or may take care
9 of part of it after it happens. It's much better to spend
10 a portion of that. And if there's some way we could
11 convince the locals that it's in their best interests to
12 maybe make a little more investment up front on
13 prevention, to save some money in the long term on
14 insurance and make something happen quickly and stay
15 certified.

16 There clearly are levees there that I think
17 are -- from a geotechnical perspective probably don't meet
18 the criteria. But some of these others seem to be perhaps
19 a little easier to address in the short term. So just a
20 thought

21 DIVISION OF FLOOD MANAGEMENT CHIEF QUALLEY:

22 Yeah. And we all need to keep, you know, working
23 together towards resolving this. And, you know, we
24 certainly haven't given up by any means. We need to
25 continue to think creatively about what we can do both on

1 the state and local side as well as persuading the Corps
2 to, you know, provide, you know, kind of some special
3 dispensation for, you know, certain situations.

4 PRESIDENT CARTER: Anything else for Mr. Qualley?

5 Thank you very much.

6 DIVISION OF FLOOD MANAGEMENT CHIEF QUALLEY:

7 Thank you.

8 Now we're on to the floodplain maps developed by
9 DWR to meet requirements of SB 5.

10 Mr. Pineda, good morning. Welcome.

11 (Thereupon an overhead presentation was
12 Presented as follows.)

13 MR. PINEDA: Good morning, President Carter,
14 Executive Officer Punia. It's always a -- I really
15 appreciate the opportunity and the privilege to address
16 the Board on topics that fall into the Floodplain
17 Management Branch.

18 As you're aware, and Kasey regularly talks about
19 it, six bills were passed last year. I kind of think in
20 terms of the granddaddy of those bills, Senate Bill 5 by
21 Senator Mike Machado, has a variety of requirements. And
22 when we look at all the bills, the Floodplain Management
23 Branch is responsible for carrying out four activities by
24 January 1st, 2009.

25 So at least from my branch's perspective, the

1 first one of those requirements is due July 1st, 2008.
2 And the best available mapping, which is required under
3 Senate Bill 5, and encoded in the Water Code Section 9610
4 Division 5, requires that the maps be put on the Central
5 Valley Flood Protection Board's website. So I think it's
6 quite appropriate that I'm here today to update you on the
7 progress that we're making. I believe today's the 20th,
8 so we have about ten more days to complete this big
9 project.

10 When we analyze a bill for what activities DWR
11 needs to do to ensure that the requirements of the bill
12 are appropriately carried out, we need to look at the
13 bill, we need to look at what component of the bill gets
14 encoded in the Water Code, and we need to look at what
15 component of the bill gets encoded into the Government
16 Code. So it's kind of a -- it's quite the process. So
17 I'm going to go through a few PowerPoint slides that were
18 in your package. And I think it's worth kind of going
19 over some of these.

20 --o0o--

21 MR. PINEDA: And I previously provided to the
22 Central Valley Board a couple weeks ago, I think it was in
23 May, preliminary map books for the counties in the Central
24 Valley that we're covering, and asked for comments. So I
25 really appreciate the Board's and the Board staff

1 cooperation on this.

2 So Senate Bill 5 requires that essentially by
3 July 1st, 2008, the Department of Water Resources is
4 required to develop the following:

5 The Department shall develop preliminary maps for
6 the 100- and 200-year floodplains protected by project
7 levees. The 100-year floodplain maps shall be prepared
8 using criteria developed or accepted by the Federal
9 Emergency Management Agency.

10 In addition, the Department shall use available
11 information from the 2002 Sacramento and San Joaquin River
12 Comprehensive Study - which we all talk around here as the
13 comp study - preliminary and regulatory FEMA flood
14 insurance rate maps, recent floodplain studies, and other
15 sources to complete preliminary maps.

16 So these maps don't have to be effective or
17 regulatory, but they can be studies that we've completed
18 or sources that would lead to a study.

19 The Department shall provide the preliminary maps
20 to cities and counties within the Sacramento and San
21 Joaquin Valley for use as best available information
22 relating to flood protection.

23 The Department shall post this information on the
24 Board's Internet website and may periodically update the
25 maps as necessary.

1 And the last item, the Department shall give
2 notice to cities in the Sacramento-San Joaquin Valley
3 outside areas protected by project levees regarding the
4 maps and other information as to the flood risk available
5 from the Federal Emergency Management Agency and other
6 federal, state, and local agencies.

7 So that's kind of a mouthful. And we have to
8 kind of interpret that and say, okay, these bills were
9 passed in -- I believe in November or earlier. I can't
10 recall the exact date that they were passed. And It's a
11 lot of work to pull together. But essentially we've been
12 starting this work a long time ago when the staff that I
13 work with in the Floodplain Management Branch, we went to
14 FEMA and started -- we received some competitive grant
15 funds to put together essentially a statewide levee
16 database that has essentially become the model for levee
17 database information systems throughout the country.

18 And that statewide levee database, it's logical
19 of course that the first area we concentrate in is the
20 Central Valley where we have most of our responsibilities.

21 And we've put together a lot of geospatial
22 information layers, essentially GIS layers, mapping
23 information. And these efforts had been started in the
24 past kind of in fits and starts, but they never really
25 were followed through to a completion. And now we have a

1 tremendous amount of mapping information that we can pull
2 up rather quickly, and it's available to the public.

3 So I think an important thing that we looked at
4 when we were interpreting Senate Bill 5 and what we needed
5 to do and much it was going to cost and who was going to
6 do it, what steps do we need to do to get to July 1st,
7 which is in ten days. We said, "Okay, what area are we
8 talking about?"

9 So we pulled up the bill and we read. What is
10 the Sacramento-San Joaquin Valley? I have my impression
11 of what the Valley is and I'm sure you do -- the Board
12 also does. And of course we're all familiar with the
13 boundaries of the Central Valley Flood Board's
14 jurisdiction, which we call the Sacramento-San Joaquin
15 Drainage District, the SSJD, and what it includes.

16 But the bill says -- the bill came up with a new
17 definition for the Sacramento-San Joaquin Valley:

18 "Any lands in the bed or along or near the banks
19 of the Sacramento River or San Joaquin River, or any of
20 their tributaries, connected therewith, or upon the land
21 adjacent thereto, or within any of the overflow basins
22 thereof, or upon any land susceptible to overflow thereon.
23 The Sacramento-San Joaquin Valley does not include lands
24 lying within the Tulare Lake basin, including the Kings
25 River." And that's encoded -- it's in the bill but it's

1 also encoded in Government Code Section 65007(g).

2 So, again, that's kind of a complicated
3 definition. And we talked internally with a lot of the
4 regular experts that you're familiar with - Rod Mayer,
5 George Qualley, our attorneys - and essentially we
6 concluded that this definition essentially takes us to the
7 valley floor but also to any of the drainage area, the
8 Sacramento-San Joaquin Valley up to the crest of the
9 Sierras.

10 --o0o--

11 MR. PINEDA: So essentially this worked out to 32
12 counties. Part of Modoc County in the far north down to
13 Fresno County in the far south. So part of Fresno County
14 drainage into Tulare lake basin and part drains into the
15 San Joaquin.

16 So this started from -- I think we normally say
17 in some of our internal work that the valley floor is
18 about 14 or 15 counties. Well, suddenly this expanded to
19 32 counties, and a very big project. Essentially there
20 are 32 counties and 91 incorporated cities within this
21 definition.

22 So the unique thing I think for the Board and for
23 the Board staff to comprehend is that this is a much
24 bigger area than the boundaries of the Central Valley
25 Board as defined by the legal boundaries of the SSJD,

1 Sacramento-San Joaquin Drainage District. And it excludes
2 the Tulare Lake basin and the Kings River, which the Board
3 includes in its jurisdictional area and the SSJD.

4 So some nuances there. But we're following the
5 bill, and that's what we're carrying out.

6 This bill is also -- these definitions, this area
7 that I talked to you is also important for the Board to
8 understand that it's the basis for the area for the
9 Central Valley Flood Plan that is required by Senate Bill
10 5, in which the State Plan of Flood Control for the
11 Central Valley is a component. And there are also other
12 elements of the bill that I'm sure you've been briefed on
13 or will be briefed on in the future about progress to
14 200-year level of protection for cities -- for urban and
15 urbanizing communities which have a legal definition for
16 the progress they make to providing 200-year protection
17 and what development can occur in 200-year floodplains.

18 --o0o--

19 MR. PINEDA: So essentially Senate Bill 5, we
20 have to work from the bigger Central Valley perspective,
21 which includes the 32 counties and the 91 cities. And it
22 relates to other activities in the bills.

23 --o0o--

24 MR. PINEDA: So I'll just kind of quickly go
25 through this. Kind of just the map of the Central Valley

1 as defined by the bill

2 --o0o--

3 MR. PINEDA: Here's kind of the legend for those
4 maps. We have ten days left. We've been in kind of a
5 frenzy of activity the last couple weeks and kind of
6 working on it day to day. I was out of town the last
7 couple days, and I was working on this remotely. We're
8 adjusting the legends and I provided Geoff -- I don't
9 know, Geoff, if you passed it out -- preliminary map books
10 for Merced county. And essentially in those map books we
11 show kind of a color code for the different areas.

12 --o0o--

13 MR. PINEDA: So I've already covered this, that
14 the area we're covering for this project -- we call it
15 best available mapping. And our acronym inside of our
16 office is BAM -- we kind of say that energetically -- best
17 available mapping, and it includes the 32 counties and the
18 91 incorporated cities.

19 --o0o--

20 MR. PINEDA: What is the data -- you know, what
21 are the data sources - it's worth going over that - the
22 data sources that we're using to put together these maps?
23 And essentially you may be asking -- and I don't have it
24 in a PowerPoint slide -- well what are the communities
25 going to do with this information? We know post-Katrina,

1 and even pre-Katrina, that flood hazard information and
2 risk communications is one of those central activities
3 that local agencies and state agencies and federal
4 agencies need to have in order to make good decisions that
5 lead to good projects that don't put infrastructure and
6 people at unacceptable flood risk.

7 So even if maps aren't regulatory or effective --
8 and we know the maps that are regulatory in California
9 related to flood are essentially the Federal Emergency
10 Management Agency flood insurance rate map and the Central
11 Valley Board's designated floodway maps. And
12 informationally designated floodways were not in this
13 requirement. And I'm not going to speculate why but they
14 weren't in. So we're not including them. But we are
15 working to adding geospatial representations of the
16 designated floodways in our GIS system for our statewide
17 levee database.

18 So the data that we're included, the data sets
19 that we're including for the BAM project for the
20 100-year -- remember, the legislation said to put together
21 best available 100- and 200-year maps. There are other
22 maps out there, 50-year maps, 20-year maps, 500-year maps.
23 So this is what we did. And we tried to follow the
24 legislation as close as possible.

25 We looked at -- we pulled together the 100-year

1 maps from the comprehensive study, in which the Central
2 Valley Board was the key non-federal sponsor and full
3 partner of that study, working closely with the Department
4 of Water Resources. We pulled together the FEMA digital
5 flood insurance rate maps. Those are the geospatial maps
6 that are replacing the 90,000 paper maps that exist
7 throughout the country. That's FEMA's Map MOD project.
8 And those are either in one of three stages. Two are
9 listed here. They're either not yet out for any type of
10 review, they're either out on a preliminary basis and were
11 pretty much there for most of the San Joaquin Valley -
12 preliminary DFIRMs, we call them; and in some counties,
13 like Colusa County, that was kind of a test case, they're
14 actually effective. So "effective" means they're out
15 there, they're final, and the community is regulating
16 them -- or regulating development by those maps.

17 So we use the FEMA preliminary and effective
18 DFIRMs.

19 We use the FEMA Q3 flood data. So what is this
20 acronym Q3? Essentially -- remember, I mentioned that
21 there are 90,000 paper maps that cover the 20,000
22 communities nationwide that participate in the National
23 Flood Insurance Program. So when we look at a
24 community -- and when I went into the office this morning
25 before coming here I asked one of our staff engineers -- I

1 said, "Tim, I was talking to somebody last night about
2 Firebaugh in the San Joaquin Valley pull out the FEMA
3 flood maps." And he essentially was going to have to pull
4 about probably ten paper maps and lay them out on a big
5 table. In the mid-nineties, FEMA made its first attempt
6 to put in a geospatial format, that's kind of a GIS
7 digital electronic format, the paper maps. And they
8 developed what's called a FEMA Q3 layer. So it's the
9 paper maps put into a digital format. They then update
10 them after the nineties. And they're not always perfect
11 and they don't always align because it was kind of the
12 beginning of the GIS era. With our consultant team, that
13 I want to publicly acknowledge their great help, PBS&J,
14 and DWR staff, we took -- one of the things we did a
15 couple years ago was take the Q3 data and make it more
16 correct, make changes to that FEMA official layer and make
17 it more accurate.

18 So the BAM maps for 100 include the FEMA Q3. And
19 then there are other Corps of Engineers, DWR-type studies
20 that we incorporated. And those two primary ones - and
21 you've heard about them at Board meetings - are the upper
22 and lower Feather River floodplain mapping studies that
23 were a catalyst from the Federal Energy Regulatory
24 Commission relicensing process that DWR undertook, a huge
25 process, for the Hyatt Thermolito Oroville Dam complex.

1 So the Department of Water Resources' Operations
2 and Maintenance division asked Flood Management to develop
3 floodplain maps and kind of flood hydraulics for the
4 Feather River. And it was close enough to the FEMA
5 methodology that we determined let's do a little bit more
6 and essentially conduct full FEMA studies. We're finished
7 with the lower Feather River study. And FEMA's adopting
8 those maps, and new areas are being put in the floodplain.
9 That wasn't intentional. It's essentially the result of
10 the best science and engineering. And the upper Feather
11 River we've had to go through a few iterations. And on
12 Monday we're meeting with stakeholders, essentially
13 community officials in the upper Feather area to show them
14 the preliminary maps. And those are also being
15 transmitted to FEMA.

16 So those are two special studies that the bill
17 kind of recognized that we need to include.

18 The third 100-year data set that we used were the
19 DWR awareness mapping. And the reason -- you may not know
20 about the awareness mapping. Those are essentially
21 approximate nonregulatory 100-year floodplains that the
22 Department of Water Resources, Division of Flood
23 Management, the branch that I work with, FPM Branch, had
24 been developing for about five years. We've gotten some
25 federal funding from the Corps to do this. And we

1 essentially go and do approximate studies on streams
2 throughout California. And we've prioritized them based
3 upon growth estimates where there is no FEMA information
4 at all or no Reclamation -- or Central Valley Board
5 information. So we've accomplished thousands and
6 thousands of miles of awareness mapping, and those are
7 shown on the Q3 best available mapping maps for the 100
8 year.

9 Then the bill also called for the 200-year
10 floodplains. And really the only source we have for those
11 are the comprehensive study. And I think the lower
12 Feather River may also have a 200-year floodplain.

13 So we had to pull these data sets together, and
14 we kind of had them here and there and we had already
15 started working on them in GIS, and put them into a GIS
16 system. And that's what we've done.

17 --oOo--

18 MR. PINEDA: How were we going to transmit this
19 to the communities? The bill didn't say mail this or send
20 a CD. But, you know, we applied logic and we went back
21 and forth with our colleagues and essentially -- I think
22 you have the map book. I believe it's for Merced County.
23 And essentially we're going to send each of the 32
24 counties a map book, which will also include CDs in the
25 back, which will have the BAM, the best available mapping,

1 data sets on the CDs.

2 So they get a book with the map index -- the main
3 map with all the -- with a transmittal letter and a bunch
4 of other information, plus the main map which has an index
5 for how you break the county up into different areas.

6 There's a total of 900 pages for those total 32
7 counties. So it's not -- each county doesn't get 900
8 pages. They get the pages associated with each county.

9 For the cities we determined, to try to save
10 costs, we weren't going to send them a map book but we're
11 going to send them the CDs with the transmittal letter and
12 all the related info. And if they request that we print
13 out a map book for them because they don't have a large
14 format printer or don't have the technology in-house --
15 because there are many small communities in the valley --
16 then we'll be happy to do that for them. So we're mailing
17 out map books for the counties, including the CDs, and for
18 the cities we're mailing them the CDs, with a letter of
19 course.

20 SECRETARY DOHERTY: Pardon me. Mr. Pineda, so
21 you're sending not just one to the county but to each
22 individual city within the county?

23 MR. PINEDA: That's correct. Each county -- if
24 there are like ten cities in a county, they will get that
25 county's map book. They won't get a -- say, a county, for

1 example, would have 30 pages of maps. Maybe the city only
2 has two of those pages. But for simplicity -- and it
3 actually saves us money -- we will send the city on a
4 digital format on a CD the map book for their parent
5 county. But each county gets a full map book for their
6 particular county.

7 And all this information will be available on the
8 Central Valley Board's website to download and print out
9 to the public or to the agency. It will be available on
10 the Division of Flood Management's Floodplain Management
11 Branch website, which is kind of a legacy website. We've
12 had it for a long time and it gets lots of hits. And it
13 would also be available -- we got a request last week to
14 make sure we put it on the Flood Safe website.

15 Did that answer the question?

16 SECRETARY DOHERTY: Yes. Thank you.

17 MR. PINEDA: All right. So essentially I covered
18 that, that the entire map book contains over 900. So one
19 of those was delivered to the Board. And it's changing.
20 But it gives you the idea of kind of the volume.

21 --o0o--

22 MR. PINEDA: I also want to acknowledge the work
23 of Anna Fong of the Division of Flood Management. She's
24 one of our IT professionals, and she's been helping us.
25 And, like I said, all the information will be available on

1 the web by the deadline.

2 --o0o--

3 MR. PINEDA: Okay. Here's kind of a sample map.
4 Essentially the color coding has changed a little bit.
5 Like I said, we've had to make some adjustments.

6 And you have your map books, and I believe that
7 the map books that you have, the green shown in those map
8 books represent the Q3 effective. That's the maps that
9 are out there right now that are regulatory from FEMA.

10 And then kind of the yellow color represents the
11 other additional 100-year layer. So if you want to look
12 at the best available 100-year layer, you have to kind of
13 add the two. And believe me, we went through lots of
14 alternatives on how to represent that.

15 And then the 200-year in your map book that you
16 have is I think a little bit of a purple color - I was
17 looking this morning - and that represents the additional
18 area related to the 200-year floodplain.

19 So when you want to say what is the 200-year
20 floodplain, you have to kind of add the three colors. So
21 that's the way it works.

22 And all these maps will be available on a PDF
23 format. That means they're kind of a picture of the map,
24 and they're very -- a lot of sharp detail. But they can't
25 be modified. So we went through a lot of issues

1 internally discussing could the community take this map
2 and use it for the wrong reason or modify it. And so that
3 kind of resulted in the decision to only have the PDF
4 version, which is kind of a non-changeable version.

5 We've been spending lots of time -- lots of work
6 on what information we put in the disclaimers and to make
7 sure the communities use this information. It's still a
8 little bit dynamic. I apologize. But I think this
9 particular element on the maps is going -- that's going to
10 be on every one of the maps. And essentially it says
11 these maps are intended to identify potential flood risk
12 for the 1 percent annual chance event and the 0.5 percent
13 annual chance event based on the best available floodplain
14 information and do not necessarily identify all areas
15 subject to flooding.

16 And so we're working on some additional
17 disclaimers. We're still working on the letter. I think
18 we're probably about 95 percent there. While most are
19 working with Elizabeth Scott of our Public Affairs Office
20 and the Flood Safe Executive Management Team, this has
21 gone up to the Director. We're going to put together a
22 press release. I've put together some technical bullets
23 and we're working with Elizabeth to hopefully have a press
24 release very soon.

25 The Central Valley Board's logo is on each of the

1 maps because you are the experts or you are the Board for
2 the Central Valley. And so I really appreciate having the
3 opportunity to put that logo on there.

4 One last thing I would say - and I was working on
5 this bullet on last Friday night - that someone said,
6 "Well, you've got to put in the press release what the
7 counties and the cities are going to use these maps for."
8 Well, as I mentioned earlier, it's best available
9 information. They can use it for their planning and for
10 risk identification to lead to better planning. But AB
11 162, and I believe that was authored by Assemblywoman Lois
12 Wolk, essentially said we have to incorporate flood into
13 the general plans and you have to use available
14 information.

15 So these maps will be used for many of the
16 elements of the general plan: The housing element, I
17 believe there's a safety element. And I think I had about
18 three more, but I can't recall it at this point.

19 So as communities, cities and counties, update
20 their general plan, they will be able to use -- if they're
21 one of these Central Valley communities, the 32 counties
22 plus the 91 cities, they'll be able to use these best
23 available 100- and 200-year maps to help update those
24 components of their general plan as require by AB 162.

25 So this is a product that helps another --

1 required by one bill that helps another bill. But we
2 really started the product even without the bills. But
3 this gave us the impetus to get it done by a certain time
4 and to pull it all together.

5 So with that, I'll be happy to answer any
6 questions.

7 PRESIDENT CARTER: Any questions for Mr. Pineda?

8 That's a good presentation. Thank you.

9 Mr. Punia.

10 EXECUTIVE OFFICER PUNIA: Not a question, just a
11 comment. I just want to inform the Board that Ricardo not
12 only has a commitment but he has a passion for his job.
13 And he's a member of the New Orleans board, just similar
14 to the board we have. And Ricardo volunteers three days
15 per month at his own time to participate in that board.

16 MR. PINEDA: Just landed last night about 11:50
17 p.m. from New Orleans.

18 And they're embarking, just for your
19 information -- you may read about it -- their project to
20 get to 100-year protection - and they thought they had
21 near 250-year protection - is \$10 billion. And at least
22 the good news is -- the bad news is that it's \$10 billion
23 and the local share is 1.5 billion, and that's for the New
24 Orleans metro area on both sides, the east side and the
25 west side of the Mississippi River. And the 1.5 billion,

1 which the state doesn't have, so they're trying to work to
2 raise that. And good news is that it's proposed -- all
3 the federal component is in the President's budget for
4 this year. So they're trying to figure out -- there's
5 lots of issues about levee raising and modeling and where
6 to find borrow. But it's a very ambitious project to try
7 to restore a moderate level -- and that's what I try to
8 tell them, you can't stop at the 100-year. To get to
9 500-year protection it's estimated between 40 billion on
10 up. And they have a comprehensive study going on called
11 LACPR, the Corps does, to define 500-year project, which
12 more or less Category 5 hurricane protection. So the
13 hurricanes push the water up. They don't care if it's
14 from rain or from the river. Water is water. So when a
15 hurricane comes, it pushes the water and raises the
16 elevation. So you have to build your protection system
17 against that high height.

18 So thank you, Jay.

19 SECRETARY DOHERTY: Are they concerned about the
20 flooding in the midwest and that coming down the
21 Mississippi?

22 MR. PINEDA: To a certain degree. But they
23 had -- the Mississippi River in New Orleans - and they
24 refer to it as the Carlton Gauge. There's so many
25 similarities between the Mississippi and the Sacramento.

1 We have the I Street Gauge, which is our base measuring
2 here - 27.5 and rising we open the Sacramento Weir, if I'm
3 correct. In Mississippi, by the Corps of Engineers
4 office, which is on the levee, a super oversized built,
5 overlooking the Mississippi, beautiful place if you can
6 get down there, they have the Carlton Gauge near Carlton
7 Street or Carlton Avenue. And I believe that the capacity
8 with design freeboard is about 1.5 million cubic feet per
9 second. While in Sacramento we have 100,000, but with the
10 Yolo Bypass I think we had about 400,000.

11 So they had high, high flows, above a million
12 cubic feet per second, early in the spring from the early
13 spring runoff. This slug of water that's coming down the
14 Mississippi and rising in certain locations will flatten
15 out or attenuate by the time you get to Mississippi.
16 Upstream of Mississippi, part of the water -- and I
17 believe it's 20 to 30 percent -- goes into the Atchafalaya
18 River basin, that was an old tributary of the Mississippi
19 River. And one point the Mississippi River wanted to jump
20 over back to the Atchafalaya basin as it did in ancient
21 geologic times. And that would have left communities like
22 Baton Rouge being on a slough. So the Corps has a
23 structure there that kind of splits the flow.

24 Upstream of New Orleans, like the Sacramento
25 Weir, there's something called the Bonnie Kerry Spillway

1 with gates. And that moves water from the Mississippi
2 River to Lake Pontchartrain, which is a big basin open to
3 the gulf. And downstream of New Orleans there's something
4 called Bohemia Spillway, which takes water off also. So
5 very similarities.

6 So they are worried, but they think they're okay.
7 But there's -- the reconstruction there costs a lot of
8 money, and we're really concerned with an area called
9 Saint Bernard Parish, which is downstream of New Orleans,
10 where there weren't any real levee -- there was a little
11 bit of levee failure, but it was mostly the water from the
12 gulf just went right over one of the levees. So it needs
13 massive raising and a massive amount of water, and an
14 economically and very difficult situation. I think they
15 can protect a lot of New Orleans. They can kind of
16 fortify it. But it's the downstream basin that's tough.
17 And a lot of hard working people there that provide work
18 and refineries and provide oil for all our nation, they're
19 whole houses -- you know, everything they worked for was
20 destroyed, as we're seeing right now. So there's a strong
21 commitment to try to improve it.

22 SECRETARY DOHERTY: Thank you.

23 PRESIDENT CARTER: Thank you.

24 Nothing further?

25 Thank you very much.

1 Let's take a ten-minute recess right now. And
2 we'll continue in ten minutes with Item 6, the Three
3 Rivers Levee Improvement Authority Monthly Report.

4 (Thereupon a recess was taken.)

5 PRESIDENT CARTER: Ladies and gentlemen, if I
6 could ask you to take your seats. We'll go ahead and
7 continue with the meeting.

8 As you recall, we were -- before recess we had
9 just wrapped up Item 5, the Report of the Activities of
10 DWR.

11 And we're now moving on to Item 6, the Three
12 Rivers Levee Improvement Authority Monthly Report.

13 Good morning, Mr. Brunner. Welcome.

14 MR. BRUNNER: Good morning, President Carter,
15 members of the Board. I'm Paul Brunner, the Three Rivers
16 Levee Improvement Authority Executive Director.

17 And I'm here and I'm excited about all the
18 efforts that we've had going on in Yuba County. We do
19 have major portions of our project under construction,
20 Segments 1, 2 and 3. George Qualley referenced that. So
21 literally some of our final phases of our projects are
22 going forward. Thirteen miles of levee are now being
23 improved. So if you ever want to go see a tour of levee
24 improvements, at least locally, let me know and I'll be
25 glad to take you on the tour. And I give a little bit of

1 every capture as to where we are on the project. But all
2 the various efforts that we've all put together, be it
3 from the Board, from our staffs and TRLIA, to the local
4 government agencies, to the developers that helped finance
5 the early parts of the program, are really super
6 appreciated, and all those efforts are now coming to
7 fruition.

8 What I'm going to work to here is to refer you
9 back to the report that we do on a quarterly program -- or
10 a monthly update. And I'm not going to try to attempt
11 every item on it, but to give you some highlights. And
12 when I'm done, I'll always entertain questions if there's
13 something I didn't cover for you.

14 On the funding, I'm really going to point towards
15 Item No. B on that. And that deals with our funding that
16 we have been getting on the program. And George Qualley
17 was mentioning this too about various things being
18 approved and money flowing. Great appreciation to both
19 the DWR folks that have been -- Eric Koch's group, and
20 also the real estate group that's providing review of our
21 invoices and moving money along.

22 But the first quarter funds we have received
23 around \$40 million to come into the program. That's very
24 positive to flow. That's broken into \$10 million for
25 construction. Remember, the state was advanced funding or

1 construction up front by quarter that we turn into the
2 program. So that money's flowing. We have local share
3 going into that too. The program that we have for local
4 share -- or landowner that said was going to contribute
5 money is contributing the money on schedule and time. So
6 that whole local share program's working out and the
7 revised program that we went -- once the developers had to
8 move aside and -- or moved aside and we went with local
9 program funds from more of a government agency and one
10 landowner.

11 We are now busily putting together the funding
12 request. In fact, we made it for the second quarter to
13 the state. That in itself is like another \$25 million
14 just in construction and some more money for land
15 acquisition to help settle cases as we work with the
16 landowners out there. So great progress on that. That's
17 for the July, August, and September. And, again, we're
18 trying to -- were asking for money up front so that we can
19 go ahead and have the money as we award and do the work
20 and then pay the bills.

21 So a lot of really super progress there is going
22 on. And I'm very appreciative of everyone's help and
23 assistance on that.

24 I'm going to turn to page 2. I don't really have
25 much of an update on anything really more to say than I

1 said here. On Item No. 2, Levee Design and Construction
2 Work for the Yuba Levee. Then that's stated here. We're
3 still working that, so I'm going to move to the second
4 page and talk about the work on the Feather River.
5 Rearrange the format of the report a little bit to really
6 stress the area in construction.

7 First, on Segments 1 and 3, one being the
8 southerly portion from Bear River up to Star Bend. That
9 work is underway by Nordic Corporation. If you were to
10 visit the site, you would see that they have torn down
11 around 2,000 miles of levee, degraded it down, and now
12 putting in the slurry walls and busy -- rapidly going
13 forward and doing those improvements on that portion of
14 the project. I thought --

15 SECRETARY DOHERTY: It's not 2,000 miles.

16 MR. BRUNNER: Did I say miles? I must be
17 referring to all the large things that are going on in the
18 Mississippi Valley here.

19 No, it's 2,000 feet - sorry about that - 2,000
20 feet.

21 So a lot of effort is going on in that.

22 And Nordic is planning to get the work done in
23 the August-September timeframe. They're working as
24 rapidly as possible on both Segments 1 and 3 because they
25 do have some other projects that they want to move

1 equipment too. So that's actually positive from our
2 vantage point to get the work done.

3 On Segment 3, Nordic Corporation is also working
4 on that. This is from Shanghai Point up to the Yuba
5 confluence on the Feather River. They're busily working
6 on that, putting in slurry walls and other types of fixes
7 that we have there. That work is definitely planned to be
8 done this year.

9 A couple notes here. On Segment 3 work, is that
10 we did run into a large concrete foundation obstruction.
11 This turned out to be several large concrete foundation
12 obstructions. Apparently this portion of the levee was a
13 setback levee at one time itself and moved back. But they
14 built the levee on top of some old foundation, and they
15 didn't remove all the large concrete structures that were
16 there that we hit 15 feet below ground. So we had to go
17 through and degrade the levee down to ground, go down and
18 get all that out of the ground. We priced out, is it
19 better to do as a seepage berm or remove all the obstacles
20 down below ground? And we decided that it was better to
21 remove them. So we removed them, and now it's back up to
22 grade, and reestablished the levee and the slurry walls
23 going in. This is where we have a slurry wall going
24 through, and we needed to remove all those obstacles to
25 put the slurry wall in.

1 All that effort was coordinated with your staff
2 and also with the Corps as we went through that. So that
3 is done and we're moving forward.

4 We're still working with your staff on the
5 encroachment permit modification for the seepage berm for
6 the trench collapse that we had on the slurry wall. The
7 Corps has responded back now, I understand, to Jay's
8 staff. And we expect that they come out potentially this
9 week, next week. That will allow us to go ahead and do
10 that fix and put that in.

11 On Segment 2, good progress was going on on that
12 two now. We did award since your last -- or last Board
13 meeting here a modified Schedule B contract award for
14 about \$25 million. That was on May 20th. There's a map
15 attached to your handout that shows the areas that we're
16 working on under this contract that we put in place.

17 We're phasing it through here because you're
18 encroachment permit talked about part A and part B. We're
19 doing the work. And we put under our contract major
20 portions of the work that we were allowed to go through.
21 The work that's still being -- pending, the federal permit
22 process is not yet awarded. So we're holding that in
23 abeyance until we get the permits. And I'll comment on
24 that in a second as to where that is. So we do have that
25 contract in place.

1 We did have a ceremony that took place. It
2 was -- from my perspective, I think it really worked well.
3 It was well received. President Carter attended. Thank
4 you for coming on that.

5 And we centered the ceremony on really the flood
6 victims that had been impacted by previous floods in the
7 area. And I think that was really well done for -- to put
8 the focus on them instead of the political oversight or
9 what, but really focusing on them. I know that the people
10 that participated, there were four previous flood victims
11 that had a shovel to get to turn the soil, appreciated
12 that very much on it. And the event did get good press
13 coverage. A tremendous turnout that came. I met -- I
14 show in the report here that we have a -- on our site we
15 set up a special linkage.

16 SECRETARY DOHERTY: It's wrong.

17 MR. BRUNNER: Beg your pardon?

18 SECRETARY DOHERTY: It's wrong. It's TRILA. It
19 should have been TRLIA. Because I tried to access it and
20 it wouldn't work. And so I went back to how we usually
21 spell it.

22 MR. BRUNNER: You are absolutely right.

23 SECRETARY DOHERTY: It's not that important,
24 but --

25 MR. BRUNNER: No, actually I'm -- thank you.

1 Yes, it --

2 SECRETARY DOHERTY: I wanted to see it.

3 MR. BRUNNER: -- is to -- we are updating it. In
4 fact, there'll be -- probably early next week there will
5 be a lot more on there, specifically with Segment 2, with
6 photos of what took place in the ceremony, and also
7 construction photos of what's going on and more updates on
8 the project itself.

9 We think it's really important that as this major
10 work goes forward, that the public has an access point to
11 see what's going on. And a lot of public funds are going
12 into the project along with local funds for what we're
13 doing here.

14 So using the correct website, which is TRLIA dot
15 org, you can access that and see what's going on.

16 Thank you.

17 Let me turn to the work that we're doing with the
18 Corps. This is Item No. D on the completion of the
19 setback levee for the EIS schedule.

20 I reported last time we're still working with the
21 Corps and many comments going on. I think we finally have
22 reached the point -- we had a high level discussion
23 yesterday with the Division, General McMahon -- Colonel
24 Chapman was participating in it -- to move the schedule
25 along to completion. The district office has completed

1 the document from their perspective. And this EIS was a
2 Corps document. It is not a TRLIA document that --
3 because it's a federal action, it's their document. That
4 they've finished it, a draft Environmental Impact
5 Statement, feel it's a worthy document, have sent it to
6 Division, which has been delegated down the authority to
7 sign the 408 approval in the process. But the EIS has to
8 be done first.

9 So with that, they're in the process of doing
10 their back check and comments and hope to issue it out
11 next week. Then we'll get published for availability and
12 that process will go through.

13 We're still hopeful from TRLIA's perspective is
14 to try to get the permitting process done so we can do
15 major work yet this year. We need to have the permitting
16 process done by the end of August or early September, 408
17 approval at least on it, to be able to do the tie-in work
18 and get it done this year. So that really becomes a
19 critical component and we've been emphasizing that.

20 There's a lot of paperwork and a lot of issues
21 for people to help support to get through that, and we're
22 encouraging that. And the Corps is trying to work with us
23 to get to that point too.

24 Let me go to the next page, which is on levee
25 utility crossings to meet the Corps and State of

1 California criteria. This deals with the utility
2 crossings. And some of the Board members weren't here
3 when I spoke last month. But I committed to going
4 through -- because of the delays on the markers and always
5 trying to get the companies to do that, is by this
6 morning's meeting we would have the markers placed. TRLIA
7 would just go do it.

8 We did go do that and they're marked, they're
9 placed on it. We'll get back with the companies and get
10 compensation or whatever it is. But we'll just deal with
11 that. But we decided that we would just take that off the
12 plate.

13 With that, the markers, if you went and looked,
14 they're temporary markers. And we'll make them permanent
15 down the road. But they're temporary because we may be
16 doing some work in there that may have to degrade
17 something in the area. So we put them as temporary for
18 now.

19 So with that, I'll conclude and ask if there's
20 any particular comments or questions you'd like to ask.

21 PRESIDENT CARTER: Thank you.

22 Are there any questions for Mr. Brunner?

23 I guess that's it. Thank you very much.

24 MR. BRUNNER: Thank you.

25 PRESIDENT CARTER: Okay. We'll move on to Item

1 7, which is our consent calendar for this morning.

2 We have on consent Items 7A through 7N.

3 Is there anyone from the public that would like
4 to address any of these items on the consent calendar
5 today?

6 Very good. Okay. None of the Board members want
7 any specific presentations on any of these as we discussed
8 this morning?

9 Okay. So we'll entertain a motion on the consent
10 calendar.

11 BOARD MEMBER BROWN: Mr. Chairman, I move we
12 approve the consent calendar, Items A through N.

13 LEGAL COUNSEL CAHILL: Could I suggest that you
14 make that approval subject to staff not actually issuing
15 the actual permit until they've received all necessary
16 documents.

17 BOARD MEMBER BROWN: I concur with that and will
18 add that to my motion, Mr. Chairman.

19 BOARD MEMBER BURROUGHS: I'll second.

20 PRESIDENT CARTER: Okay. We have a motion and a
21 second to approve the consent calendar contingent upon --
22 and asking staff not to issue the permits or take action
23 on consent items until they have complete information on
24 all of them.

25 And my understanding that those items that lack

1 information are items 7A, B, G, H, I, K, L, and M.

2 EXECUTIVE OFFICER PUNIA: That's correct.

3 PRESIDENT CARTER: All right. Mr. Punia, would
4 you call the roll please.

5 EXECUTIVE OFFICER PUNIA: Board Member John
6 Brown?

7 BOARD MEMBER BROWN: Aye.

8 EXECUTIVE OFFICER PUNIA: Board Member Rose Marie
9 Burroughs?

10 BOARD MEMBER BURROUGHS: Aye.

11 EXECUTIVE OFFICER PUNIA: Board Member Lady Bug?

12 SECRETARY DOHERTY: Aye.

13 EXECUTIVE OFFICER PUNIA: Board President Ben
14 Carter?

15 PRESIDENT CARTER: Aye.

16 Motion carries unanimously.

17 Thank you very much.

18 EXECUTIVE OFFICER PUNIA: We are five minutes
19 ahead of schedule.

20 PRESIDENT CARTER: Okay. We find ourselves five
21 minutes ahead of schedule.

22 So what we will do is go to -- maybe what we'll
23 do is go to Item 16, Board Comments and Task Leader
24 Reports. We can certainly report on the levee roundtable
25 item under that. I can start out.

1 The California Levee Roundtable met last Friday,
2 the 13th. There was good participation by all agencies
3 involved, the flood control agencies, the Corps, the DWR,
4 the Board, and the Resource Agencies, Fish and Game, Fish
5 and Wildlife Service, NOAA Fisheries, and also FEMA. We
6 had a good discussion regarding the draft framework for
7 essentially addressing the vegetation concerns and
8 vegetation management on the levees and implementation and
9 future compliance with the Corps standards on vegetation.
10 And it appears that that framework is nearly complete.
11 We'll finalize it probably in our next meeting, which is
12 scheduled for August -- mid-August some time.

13 At that time we will probably be bringing that
14 framework to the Board to request -- actually we may bring
15 it in July, because hopefully we'll have a final draft and
16 ask the Board to review that and support it for adoption
17 by all the member agencies in August.

18 BOARD MEMBER BROWN: Mr. Chairman, while you're
19 on that subject, was there any additional consideration
20 given to not planting woody plants on the waterside of the
21 levees?

22 PRESIDENT CARTER: The proposal on the framework
23 is basically clean levee on the top third of the waterside
24 of the levee as well as the landside of the levee and the
25 ten-foot easement and the crown.

1 On the bottom two-thirds there's -- the existing
2 vegetation will be trimmed up for inspection. Trees that
3 are larger than, what is it, two inches --

4 EXECUTIVE OFFICER PUNIA: Two inches.

5 PRESIDENT CARTER: -- two inches in diameter will
6 not be allowed to grow. So new vegetation as it accrues
7 will be removed as time goes on. But the existing
8 vegetation will not be -- will not be removed. It will
9 eventually phase itself out as part of the life cycle
10 process.

11 So to answer your question, in terms of planting
12 woody vegetation on the waterside of the levee, there
13 isn't any that's going to be planted.

14 BOARD MEMBER BROWN: But what happens when the
15 existing trees grow larger than two inches in diameter?

16 PRESIDENT CARTER: They will be removed. They
17 won't be allowed to grow larger than two. And when they
18 reach that point or before, they will be removed.

19 BOARD MEMBER BROWN: Okay.

20 PRESIDENT CARTER: Now, when we talk about the
21 levee, we need to be careful, because the shape of the
22 levees -- the levees in the Central Valley have to take on
23 many different shapes. And there are stability berms on
24 the waterside, there are benches on the waterside. The
25 levee that we are talking about is the core prism of the

1 levee. "Core" meaning the central part, not the Army
2 Corps. So we're talking about making sure that vegetation
3 does not penetrate the core levee prism cross-section.

4 Now, to the extent that there are waterside
5 stability berms or benches and whatnot, vegetation will be
6 allowed on that

7 BOARD MEMBER BROWN: What about the elderberry?

8 PRESIDENT CARTER: What about the elderberry?

9 BOARD MEMBER BROWN: The elderberry plantings.

10 PRESIDENT CARTER: There aren't any elderberry
11 plantings that are going on on the levees without
12 permitted actions, to my knowledge, unless they're
13 naturally accruing.

14 Jay or Rose Marie, would you like to add
15 anything?

16 BOARD MEMBER BURROUGHS: I wasn't at this
17 meeting, this last roundtable meeting. But could you
18 maybe mention that -- was there any comments by FEMA at
19 the meeting?

20 PRESIDENT CARTER: There was a representative
21 from FEMA at the meeting. She had one comment with regard
22 to the framework that was specific to correcting some
23 references to FEMA's responsibilities and roles. And
24 exactly what those changes were, I don't recall. But they
25 were very supportive of the effort, appreciated

1 participating, were very supportive of the direction that
2 all members of the roundtable were headed.

3 BOARD MEMBER BURROUGHS: Okay. And then the last
4 thing on the roundtable, there has been consensus that
5 this is a good venue for collaboration and communication.
6 And I think I was told that there was a recommendation to
7 invite a representative from the State Water Plan and the
8 Blue Ribbon Task Force to join the Committee. And I just
9 wanted to bring that up, because I don't know if we're
10 responsible for the invitation.

11 PRESIDENT CARTER: That particular item -- I know
12 you mentioned it to me before. We did not discuss it.
13 Honestly I forgot to mention it. But certainly we can
14 extend the invitation. And the Blue Ribbon Task Force --

15 BOARD MEMBER BURROUGHS: -- and the State Water
16 Plan.

17 PRESIDENT CARTER: Okay. Jay, did you have
18 anything you wanted to add?

19 EXECUTIVE OFFICER PUNIA: I just want to make two
20 comments.

21 One, I want to acknowledge the leadership
22 provided on this roundtable by Board Member Rose Marie and
23 our President, Ben Carter, to establish this roundtable
24 and then bringing all the agencies together so that we can
25 have a framework document which is acceptable to all the

1 Resources Agencies and the U.S. Army Corps of Engineers
2 and the Department of Water Resources. It was a major
3 undertaking. And I think, as Ben mentioned, that we are
4 almost there. All the participant agencies will be able
5 to sign off on this framework document so that we can move
6 forward. So I want to commend the efforts of the
7 President and Board Member Rose Marie Burroughs.

8 And I want the also acknowledge efforts on the
9 DWR side. Gary Bardini, in particular, and Jeremy Arrich.
10 They did an excellent job incorporating comments from all
11 the agencies, and then bringing a document which is
12 acceptable to all the participants. So I think the end
13 result, which is a collaborative document framework
14 acceptable to all the participants.

15 And our facilitator, Dr. Bill Rechmeyer, did an
16 excellent job keeping the group together. And I think
17 there was quite a few times when things were not coming to
18 a closure, I think he brought people together.

19 Thank you.

20 PRESIDENT CARTER: Okay. Any questions about the
21 roundtable?

22 SECRETARY DOHERTY: Are there going to be more
23 meetings?

24 PRESIDENT CARTER: Yes, we have another meeting
25 of the roundtable in August -- mid-August some time. And

1 then from there, we'll decide what the next steps are at
2 that meeting.

3 Okay. Very good.

4 At this point we can move back on to our agenda,
5 to Item No. 9, Folsom Dam Safety and Flood Damage
6 Reduction - Stilling Basin Cofferdam.

7 Mr. Charney, good morning. Welcome.

8 MR. CHARNEY: Good morning, President Carter and
9 members of the Board, General Manager Punia, ladies and
10 gentlemen. Thank you for your time.

11 My name is Robert Charney. I work in the Project
12 Development Branch of the Division of Flood Management,
13 and in particular I work on the projects -- various
14 projects out at Folsom Dam.

15 What I'm going to do today -- I don't have any
16 slides for you, but I'm going to give a brief status
17 update on some of the milestones that I've laid before the
18 Board or have presented to the Board, just to give you an
19 idea of how the project is progressing. And then I'll
20 move on to the CEQA document.

21 Excuse me.

22 BOARD MEMBER BURROUGHS: Was that from outside?

23 MR. CHARNEY: Someone back here is talking and it
24 distracted me. I apologize.

25 First of all, the work that is ongoing is --

1 right now the construction work is being done by the
2 Bureau of Reclamation, part of their dam safety work
3 packages for the project. They are finishing up what we
4 call Phase 1 excavation. Basically there's just a couple
5 of pieces of equipment out there polishing off the
6 excavation. The work's intended to be completely wrapped
7 up by August.

8 At the time same time Bureau of Reclamation is
9 preparing to solicit Phase 2 excavation, which will be to
10 enlarge the spillway hole even larger. Phase 2 will also
11 relocate some major utilities that are in the way of the
12 spillway. And, lastly, Phase 2 will provide the
13 construction of a cofferdam -- a protective cofferdam down
14 at the stilling basin of the project, which I'll talk
15 about again in a little bit.

16 From the Army Corps's perspective, that's the
17 Flood Damage Reduction Work work packages. They have
18 released their 35 percent design. And the review of that
19 35 percent design continues. We just concluded three days
20 of meetings with what's called the Consultant Review
21 Board, which is a group of independent professional
22 geologists and engineers who are reviewing the Board's
23 work for quality.

24 And the Consultant Review Board's preliminary
25 report was very favorable and positive on the Corps's

1 design.

2 Lastly, we are continuing to negotiations with
3 the Corps for an amendment to the PCA agreement that is
4 currently in place. As you may recall, the scope of this
5 project has enlarged considerably since the original
6 Folsom Mods. And we still require an update to our
7 agreement -- our existing agreements. And that work's
8 ongoing.

9 Now, with respect to the cofferdam. I'm going to
10 turn the floor over here to Annalena Bronson in a moment
11 to present the CEQA documents. I just want to state that
12 the reason that we're taking this step is the federal
13 government felt that there was enough new information to
14 require a NEPA review of the new information for this
15 cofferdam. It's not a new element. It was proposed all
16 along. But they didn't have all the design information
17 when the first EIR/EIS went through, and now they do. So
18 they concluded their NEPA process. And we're basically
19 following through with the CEQA process today.

20 So if there's no questions for me, I'll turn it
21 over to Annalena --

22 BOARD MEMBER BROWN: I have a couple questions
23 for you.

24 MR. CHARNEY: You bet.

25 BOARD MEMBER BROWN: The three and a half foot

1 raise that is going to take place --

2 MR. CHARNEY: Yes.

3 BOARD MEMBER BROWN: -- on the total facility,
4 what's the increase in volume?

5 MR. CHARNEY: That's a difficult question. At
6 this time, it's proposed that the flood pool will not
7 actually increase. It's more of a freeboard increase in
8 an operational change. Basically that additional
9 surcharge space gives you more time before you have to
10 switch from a flood damage reduction release diagram to a
11 PMF "save the dam" flood diagram. So it provides more
12 time before we have to exceed the downstream capacity of
13 the levees.

14 BOARD MEMBER BROWN: And in that case then
15 there's no increment and water yield from this project?

16 MR. CHARNEY: Correct. If we go into a situation
17 where we change the water yield, then basically that the
18 water and power users have a say in the change to the
19 entire project. And that would be a much larger project,
20 requiring additional environmental work and negotiation
21 with many more parties.

22 BOARD MEMBER BROWN: Okay. So no increase in
23 yield and water conservation, that is?

24 MR. CHARNEY: At this time that's the plan.

25 BOARD MEMBER BROWN: So it just gives you some

1 breathing room in your operations for flood control?

2 MR. CHARNEY: Correct.

3 BOARD MEMBER BROWN: Okay.

4 PRESIDENT CARTER: Any other questions for Mr.
5 Charney?

6 Thank you.

7 MS. BRONSON: Good morning, Mr. President,
8 members of the Board. I'm Annalena Bronson and I'm an
9 environmental scientist for the Flood Protection Branch of
10 Flood Management. And I'm here to ask you to approve
11 Resolution 08-12.

12 If you recall - some of you were on the Board
13 then - 11 months ago, in July of 2007, you approved the
14 Joint Federal Project for Folsom Dam Flood Safety and
15 Flood Damage Reduction Project. And it was a massive
16 document. There were many, many, many mitigation measures
17 and a big mitigation monitoring plan.

18 And since then, the Bureau got some more
19 information. And mostly the new information had to do
20 with the access road to their dam safety work on various
21 dikes. But there was also some new information on the
22 cofferdam. So they put it together in this document.
23 There was a February draft and an April final document.
24 The only thing that we are concerned with here is the
25 cofferdam. That's the only part that's a flood damage

1 reduction feature.

2 And basically all the impacts, the tiny
3 incremental impacts that this construction of this
4 cofferdam may have are covered by the mitigation measures
5 that your Board approved in July of last year - the air
6 quality, the soil, the water, the noise. Those measures
7 are covering the incremental work that this costs.

8 So with that, I would like to ask you to approve
9 Resolution 08-12, to approve the -- adopt the Negative
10 Declaration, and approve the project. The mitigation
11 monitoring plan, as I said, was already approved a year
12 ago.

13 PRESIDENT CARTER: Ms. Bronson?

14 MS. BRONSON: Yes.

15 PRESIDENT CARTER: With regard to the -- it said
16 that there were comments regarding the supplemental
17 environmental assessment. I do not recall, were there any
18 comments specifically related to the cofferdam and the
19 changes therein with regard -- on the supplemental?

20 MS. BRONSON: Nothing that changed anything.
21 There is -- mostly they commented on the general project
22 and on the access and the traffic and that sort of thing.

23 SECRETARY DOHERTY: I think there were some
24 comments about the trail changing, and so they would have
25 to go around a different way and things like that.

1 MS. BRONSON: And that is sort of unrelated to
2 the cofferdam.

3 SECRETARY DOHERTY: Yeah.

4 PRESIDENT CARTER: Okay. Any questions for Ms.
5 Bronson?

6 SECRETARY DOHERTY: I make a motion then that we
7 approve Resolution 08-12 concerning the Folsom Dam
8 Negative Declaration.

9 PRESIDENT CARTER: Okay. So we have a motion to
10 approve Resolution 08-12, the Folsom Dam Safety and Flood
11 Damage Reduction - Joint Federal Project Stilling Basin
12 Cofferdam.

13 Do we have a second?

14 BOARD MEMBER BROWN: I'll second.

15 PRESIDENT CARTER: Okay. We have a second.

16 Any further discussion?

17 Any questions?

18 Do our staff have any comments on this?

19 EXECUTIVE OFFICER PUNIA: No.

20 PRESIDENT CARTER: All right. Mr. Punia, would
21 you call the roll please.

22 EXECUTIVE OFFICER PUNIA: Board Member John
23 Brown?

24 BOARD MEMBER BROWN: Aye.

25 EXECUTIVE OFFICER PUNIA: Board Member Rose Marie

1 Burroughs?

2 BOARD MEMBER BURROUGHS: Aye.

3 EXECUTIVE OFFICER PUNIA: Board Member Lady Bug?

4 SECRETARY DOHERTY: Aye.

5 EXECUTIVE OFFICER PUNIA: Board President Ben

6 Carter?

7 PRESIDENT CARTER: Aye.

8 Very good, the motion carries unanimously.

9 MS. BRONSON: Thank you.

10 PRESIDENT CARTER: Thank you.

11 EXECUTIVE OFFICER PUNIA: We're ahead of

12 schedule.

13 PRESIDENT CARTER: All right. So again we're a
14 little bit ahead of schedule here. So we will go back to
15 Item 16, report on the May 30th San Joaquin Area
16 Subcommittee Meeting.

17 Mr. Hodgkins is absent today. Rose Marie, Jay,
18 do you want to just give an update on that?

19 Jay.

20 EXECUTIVE OFFICER PUNIA: We had a subcommittee
21 meeting on May 30th in Stockton. The main topic at the
22 subcommittee meeting were the feasibility study update and
23 the encroachment issues related to the Bear Creek and
24 Calaveras River. And SJAFCA also gave a brief overview of
25 the history of flood control development in the Stockton

1 area.

2 And in the afternoon, we have a field tour of
3 various flood control features of the project along the
4 San Joaquin River in and adjoining the Stockton area,
5 including Paradise Cut, RD 17, and the Bear Creek and
6 Calaveras rivers.

7 The main thrust of this meeting was to apprise
8 the Board members on the pending issues related to the
9 Bear Creek and Calaveras River's encroachments. That if
10 the encroachments are not addressed, then the FEMA is
11 going to map the substantial area of the Stockton area
12 into the floodplain. And then the residents will be
13 required to buy the flood insurance. The premium of this
14 type of flood insurance will be from 1,000 to \$1200 per
15 month. So there's a request from the locals that the
16 Board and the U.S. Army Corps of Engineers, that we
17 address those encroachments to the satisfaction of the
18 U.S. Army Corps of Engineers so that the area is not
19 mapped into the floodplains.

20 But along with the encroachment and the
21 maintenance issues there are other geotechnical issues on
22 those levees too. So that locals are trying to address
23 those operation and maintenance and other geotechnical
24 issues so that they're not mapped into the floodplains.

25 We have project levees where we are involved in

1 addressing those operation and maintenance issues along
2 with the locals. But there are non-project levees where
3 the locals have to address those issues so that that
4 doesn't disqualify their areas, so that the FEMA can map
5 them into the floodplains.

6 So it's a complex issue. There are property
7 rights issues. And we are working aggressively with the
8 locals so that we can address those encroachment issues.
9 Maybe I'll invite -- Gary can maybe update the Board where
10 we are on addressing these encroachment issues.

11 CHIEF ENGINEER HESTER: In the request for
12 extension that Board staff submitted on behalf of San
13 Joaquin County, we had laid out a timeline of deliverables
14 and milestones to the Corps. We had a submittal in late
15 April that basically laid out the information on the
16 parcels in question along the levees. Eight parcels in
17 question on Bear Creek and approximately 40 on the lower
18 Calaveras. We also have a submittal that is due June 30th
19 to the Corps that reviews which of the encroachments are
20 significant enough to require removal. And that
21 determination Steve Dawson of the Floodway Protection
22 Section staff has worked closely with Bob Murikami, the
23 Corps of Engineers. They spent the better part of
24 yesterday going over that.

25 The timeline actually allows the Corps an

1 additional review period into July in case they want to
2 look at specific encroachments and get additional
3 geotechnical review of how significant they may be.

4 So this timeline is very important that we meet
5 each milestone of this. From a staff perspective, we are
6 going to go ahead and make sure that we hit all these
7 milestones regardless of whether the Corps ultimately
8 grants the extension or not. It's important to take care
9 of these encroachments.

10 I also want to acknowledge, a lot of the
11 information that we have provided to the Corps was
12 developed by Dave Lane several years ago. So his hard
13 work has figured prominently here. I want to acknowledge
14 his efforts here.

15 EXECUTIVE OFFICER PUNIA: We're glad to answer.
16 Board Member Rose Marie also participated in this
17 subcommittee along with Vice President Butch Hodgkins.
18 And I think Board Member Rose Marie may have any comments
19 on this.

20 BOARD MEMBER BURROUGHS: You did a very good job
21 of explaining the tour. I immensely enjoyed being able to
22 see firsthand the degree of encroachments, and they were
23 substantially different. So it is a huge problem, and I
24 commend the staff for this great endeavor of trying to get
25 all this information together.

1 I would hope that our Board would also help to
2 communicate to the public once we have solid information
3 on what's going to be happening, because there were a lot
4 of questions that the public had that we weren't able to
5 answer that day.

6 Thank you.

7 EXECUTIVE OFFICER PUNIA: I think I just want to
8 add that the local citizens and the local officials
9 appreciated Board's participation and visiting them at
10 their place and having the tour and hearing their concerns
11 firsthand.

12 And that's it, what I had to report.

13 PRESIDENT CARTER: Just kind of a general
14 comment. I did not attend the subcommittee meeting after
15 discussions with staff and Rose Marie and Butch. It's
16 clear to me that this is a very, very significant issue to
17 the locals, something that we really -- that the state
18 really needs to be responsive on in terms of doing
19 whatever we can to help. We did discuss with DWR
20 Executive the possibility of somehow perhaps freeing up
21 some bond funds to help with some of the encroachment
22 removals and whether that involves purchasing easements,
23 purchasing some property or whatever to get this ball
24 rolling.

25 I think our perspective is we see this as a train

1 coming down the track and potentially could have a wreck
2 come fall if it's not handled appropriately.

3 And, in addition, whatever we do in this process,
4 we've got to think about how we can institutionalize and
5 make the process better, because this is not the only area
6 where we have this problem. And, in fact, in the
7 Sacramento area, West Sacramento, Pocket area the
8 encroachments are even worse. And so we need to figure
9 out how to deal with this. And this is something that the
10 Board is going to have to wrestle with from a policy
11 perspective. And of course from a legal perspective we
12 need to understand the processes and what we are able to
13 do under law and what is reasonable to do and what is
14 reasonable to expect given the timing of a lot of this and
15 the time that the various legal processes and due
16 processes take.

17 But this is a very, very significant issue. I
18 don't -- my sense is that I don't think that everyone has
19 really internalized how huge this is except for the people
20 who are directly involved. And we need to get more energy
21 within the Administration and the state around this to get
22 this moving and address these. These are very, very
23 difficult issues and it's a huge problem that we have with
24 the system.

25 Mr. Punia.

1 EXECUTIVE OFFICER PUNIA: One more comment.

2 Yeah, one more comment. I want to acknowledge
3 the efforts of our staff, Geoff Shumway and Roger
4 Churchwell both coordinated this subcommittee meeting, and
5 everything went according to the plan. And I think -- I
6 got very positive feedback from the participants that they
7 enjoyed the briefings and the field tour.

8 PRESIDENT CARTER: Okay. Any other questions?

9 BOARD MEMBER BURROUGHS: I was just going to
10 share that Ms. Cahill and Ms. Finch also attended the
11 subcommittee.

12 PRESIDENT CARTER: Okay.

13 BOARD MEMBER BURROUGHS: They may have some
14 comments too?

15 PRESIDENT CARTER: Ginny, do have any comments or
16 anything you'd like to add or --

17 LEGAL COUNSEL CAHILL: No, I think it's been
18 covered.

19 Thank you.

20 PRESIDENT CARTER: Okay. Very good. Thank you.

21 We'll --

22 LEGAL COUNSEL CAHILL: You know, President
23 Carter, you are about five minutes ahead of schedule, but
24 you have replacement staff reports and resolutions on
25 items 10 and 11 that are coming up. So you might want to

1 take the next five minutes for the Board to look at the
2 revised staff reports and resolutions. The changes are
3 primarily in the staff recommendation part of the staff
4 report and in the operating part of the resolution. These
5 are items 10 and 11.

6 PRESIDENT CARTER: Is that what was --

7 LEGAL COUNSEL CAHILL: It was handed out to you
8 in a package of materials.

9 BOARD MEMBER BURROUGHS: It just came in right
10 now this morning.

11 PRESIDENT CARTER: In a portfolio. Okay.

12 That's probably a good suggestion. How about if
13 we take about a ten-minute recess and we will reconvene at
14 11 a.m. for Item 10.

15 (Thereupon a recess was taken.)

16 PRESIDENT CARTER: I'd like to call the meeting
17 to order please.

18 We'll go ahead now and continue the meeting of
19 the Central Valley Flood Protection Board. We are on Item
20 10, the PL 84-99 Levee Rehabilitation Project for
21 Reclamation District 2098 and Reclamation District 536 in
22 Solano County.

23 Mara Noelle, good morning still.

24 MS. NOELLE: Good morning, President Carter and
25 members of the board and staff. I'm Mara Noelle, an

1 environmental scientist with the Levee Repair Branch.

2 And I'd also like to introduce Samson
3 Haile-Selassie. He's in the audience. He works with the
4 PL 84-99 Rehabilitation Assistance Program.

5 PRESIDENT CARTER: Ms. Noelle, if I could just
6 interrupt you one moment.

7 For the record, let it show that Board Member
8 Teri Rie has joined the meeting.

9 Thank you. I apologize. Please continue.

10 MS. NOELLE: I'm presenting two levee repair
11 projects in Solano County. They'll be constructed this
12 summer under the PL 84-99 Rehabilitation Assistance
13 Program. We're seeking adoption of the Mitigated Negative
14 Declarations for RD 2098 and RD 536 to comply with the
15 Environmental Quality Act in California. And we're also
16 asking for approval of the project.

17 This is under Resolution No. 8-13. And these
18 projects are in Solano County.

19 (Thereupon an overhead presentation was
20 Presented as follows.)

21 MS. NOELLE: PL 84-99 program is a federal law
22 that gives U.S. Army Corps of Engineers the legal
23 authority to supplement local efforts in repair of flood
24 control projects that are damaged by floods. And the
25 Board is a local sponsor under cooperative agreement with

1 the Corps.

2 And the Levee Repairs Branch Chief Pal Sandhu,
3 he's also in the audience here, will present that
4 particular item at the end of this presentation.

5 --o0o--

6 MS. NOELLE: In 2008 the Corps would like to
7 repair 16 Order 2 sites, some of the more severely damaged
8 sites, and approximately 133 of the 3, 4, and 5 Order
9 sites. They're going to try to do as much as they
10 possibly can given the work windows on various
11 environmental work windows that structured the timing.

12 --o0o--

13 MS. NOELLE: Typical damage in both of these
14 reclamation districts were erosion and a loss of the rock
15 riprap and wave wash. And I'm going to go through some
16 slides. It just kind of depicts some of the damage in
17 these RDs.

18 --o0o--

19 MS. NOELLE: But first, Reclamation District 2098
20 is roughly southeast of Dixon and Vacaville and south of
21 Sacramento. And you can see the -- wherever you're
22 looking -- the red box up there -- I don't have like a
23 pointer -- depicting where it is.

24 --o0o--

25 MS. NOELLE: And here's a better description of

1 exactly where the different sites are laid out. They're
2 along Shag Slough and the Yolo Bypass to the east and then
3 they go up Cache Slough and up into Haas Slough towards
4 the west.

5 --o0o--

6 MS. NOELLE: Here's some damage on Shag Slough.
7 You can see the erosion.

8 --o0o--

9 MS. NOELLE: Another one on Shag Slough. Here's
10 site 10, more erosion.

11 --o0o--

12 MS. NOELLE: And here's a long strip of erosion
13 and wave wash damage on Shag Slough, Site 12.

14 --o0o--

15 MS. NOELLE: And here's one on Cache Slough that
16 shows a big cut into the levee there. That would be one
17 of the Order 2 sites.

18 --o0o--

19 MS. NOELLE: And here's another slide on Cache
20 Slough, some of the longer stretches of damage along the
21 slough. You can see -- please note that the tules and
22 cat -- or the tules out there in the water, those will be
23 protected in place during the construction.

24 --o0o--

25 MS. NOELLE: And here's a slide, you probably

1 can't read very well, of the construction. It's a typical
2 design, that they're basically going to excavate out the
3 erosion areas and they're going to stay within six inches
4 along the damaged area and go down a number of feet to
5 stabilize the area, refill it with compacted fill, and
6 then put rock on top of it. So then there's also going
7 to be a bedding later for any kind of restoration that
8 will happen. There's going to be grasses planned.

9 --o0o--

10 MS. NOELLE: And then in RD 536, there are
11 actually 13 sites. Some of the sites have dropped out.
12 They're on Lindsey Slough from River Mile 20.7 and up to
13 24.3. And the area's roughly six miles above Rio Vista.
14 And you can see the various sites stretched out.

15 --o0o--

16 MS. NOELLE: And some of typical damage slides
17 aren't the greatest photos in the world but the only ones
18 we have of the damage. You can see some cuts along the
19 banks there.

20 --o0o--

21 MS. NOELLE: There's Lindsey Slough. They're all
22 on Lindsey Slough.

23 --o0o--

24 MS. NOELLE: There's a bigger cut.

25 --o0o--

1 MS. NOELLE: And there's going to be two options
2 for repair in RD 536. And there's going to be the typical
3 waterside repair design. They're going to reconstruct the
4 damaged slope, and all these will be reconstructed to the
5 original design of the levee. And then it will be filled
6 with compacted fill and they'll replace the rock
7 protection. They're going to reseed the levees with
8 native grasses. And they're also going to install willow
9 pole cuttings along the toe. And then the levees will --
10 the tules will be protected in place. And then they're
11 also -- if they take out any tules, they're going to be
12 put over the protective fencing and they'll be replanted,
13 and they'll plant additional tules where they took them
14 out. That's going to create shallow water aquatic
15 habitat.

16 --o0o--

17 MS. NOELLE: And there's also -- there's the
18 waterside repair.

19 There's also going to be a landside repair. And
20 they're going to reconstruct the damaged slope by
21 excavating six feet and backfilling with compacted fill.
22 They're going to add 14 to the levee crown and to the
23 width -- 14 feet. And so they're going to make the road
24 that's going to encompass the top of the levee slope.

25 They're going to move an agricultural ditch 20

1 feet away because the new levee slope will be wider. And
2 they're going to reseed with native grasses.

3 --o0o--

4 MS. NOELLE: And there's an example of the slope.
5 And you can see the ditch there on the side for the
6 landside slope. That's only for two sites, not Site 4 and
7 5 --

8 SECRETARY DOHERTY: Ms. Noelle, May I ask you a
9 question about that ditch that they're relocating?

10 MS. NOELLE: Yeah.

11 SECRETARY DOHERTY: Who owns that land in that
12 area?

13 MS. NOELLE: You know, I'm not clear on that.
14 But it's an agriculture -- the farmer basically would own
15 that, as I understand.

16 SECRETARY DOHERTY: So they lose farmable acres
17 when this levee is moved?

18 MS. NOELLE: You know, I'm not clear on that.
19 I'd have to check on that. I was reading about that
20 yesterday, and I didn't put the answer yet.

21 SECRETARY DOHERTY: Yeah, because 20 feet, you
22 know. And then depending on how far it is, pretty soon
23 you start losing acres.

24 MS. NOELLE: Right. There could be a small --
25 you know, some of that area along the edge of the farms is

1 left kind of brutal and such. When I was out there, it
2 seemed that the ag fill started at least 20 feet. But I
3 still have to directly answer that question from the Corps
4 of Engineers. And I didn't contact them yesterday.

5 But to my knowledge many of these places have a
6 good distance between when the ag fields start, especially
7 with the ditches there now. So that's encompassing that
8 area. But we do need to find out if any agricultural land
9 is being removed.

10 --o0o--

11 MS. NOELLE: And then there are various data
12 species issues involved with this levee repair and moving
13 the ditch and such. Giant garter snake, they've been
14 consulting on that with the moving of the ditch. We have
15 green sturgeon, Central Valley steelhead, Central Valley
16 spring-run Chinook salmon, and Central Valley winter-run
17 salmon. Delta smelt is in the area. And we also have
18 some state-listed species - Swainson's hawks and burrowing
19 owls. And the fish impacts were determined by the salmon
20 analysis.

21 And basically we are going to avoid impacts to
22 species. The standard avoidance and minimization measures
23 during construction activities for garter snake will be
24 implemented.

25 We're going to work in the various work windows

1 for the salmonid species and also for the smelt. We'll
2 improve the habitat with the pole cuttings and the tule
3 preservation and restoration in the aquatic habitat.

4 And they'll also put in smaller rock in the
5 surface voids of the larger rocks, so we can have better
6 success of getting soil in there and getting vegetation
7 established.

8 --o0o--

9 MS. NOELLE: That's basically the review of the
10 Mitigated Neg Decs. We had a 30-day review period. It
11 closed. And we had comments from Department of Fish and
12 Game and from the Delta Protection Commission. I have the
13 letters here with me, if you would like those.

14 --o0o--

15 MS. NOELLE: And we would like you to consider
16 the approval of Resolution No. 8-13. And that would be
17 adopting the Negative Declaration, the findings and
18 mitigation measures for PL 84-99 Levee Rehabilitation
19 Project in Reclamation District 2098, and also the
20 Mitigated Neg Declaration's findings and mitigation
21 measures for rehabilitation projects in Reclamation 536,
22 and also to approve the project.

23 And now the -- huh-oh, my next slide isn't there.

24 --o0o--

25 MS. NOELLE: But what I'm going to do is

1 introduce Pal Sandhu, who's going to bring via the slide
2 that isn't here --

3 LEGAL COUNSEL CAHILL: And I'd like to note for
4 the Board that there's a revised resolution and it has an
5 additional point that wasn't on the slide.

6 MS. NOELLE: Thank you. Yes. And actually I
7 have the copy of the slide here, Pal, so you can read off
8 that. Somehow it didn't get saved on to that.

9 LEVEE REPAIRS BRANCH CHIEF SANDHU: You don't
10 have the slide with you?

11 MS. NOELLE: It's not here. For some reason it
12 didn't get transferred over. But it's written right here.
13 And now there's a copy of what the slide was. I
14 apologize.

15 LEVEE REPAIRS BRANCH CHIEF SANDHU: Okay. This
16 is the item relating to the project cooperation agreement
17 with the U.S. Army Corps of Engineers. My name is Pal
18 Sandhu. I'm Chief of the Levee Repairs Branch in Flood
19 Management -- Division of Flood Management.

20 Normally on all these projects in PL 84-99 when
21 we carry on this work in cooperation with the Corps of
22 Engineers, we are supposed to provide all the LERs, that
23 means the proper right of way and also the borrow material
24 agreements on this. And project cooperation agreement,
25 that's the time when the Corps starts, you know, bidding

1 and getting ready for construction.

2 We have done these agreements before and in
3 continuation with those previous agreements which were
4 done for PL 84 work for 2006 flood. This is the second
5 agreement for those series. This agreement covers 81
6 sites. Some of these sites may drop out. And the
7 resolution to this is to delegate to the Executive Officer
8 the authority to execute the project cooperation agreement
9 with the U.S. Corps of Engineers but only upon receipt of
10 necessary signed local assurance agreements from the
11 maintaining agencies.

12 The Executive Officer is also delegated the
13 authority to require property interests to complete the
14 project.

15 This was -- we had discussions with DWR Legal and
16 also the Protection Board Legal, Virginia Cahill. And in
17 this wording the only clarification which I requested is
18 as to if there's already existing agreements with the
19 locals, they should be considered. And in those cases we
20 will get assurance letters from them so that we don't have
21 to go back every time we have new sites coming in and
22 every time sign a new agreement.

23 So all the -- there are about 50 percent of the
24 districts they have already signed agreements and they're
25 on file. And we would like those districts who have the

1 agreements already provide only assurance letter that this
2 new work will be part of the previous agreement they have
3 agreed already, so that we don't have to every time
4 construction or repairs on the sites where I don't have to
5 go back on this.

6 LEGAL COUNSEL CAHILL: So basically the language
7 in your resolution delegates to the Executive Officer the
8 authority to execute the agreement with the Corps but only
9 upon receipt of necessary signed local assurance
10 agreements from the maintaining agencies. That gives you
11 some flexibility. You only need necessary ones. So if
12 there's one in existence that clearly covers it, it may
13 not be necessary to get a new one. We would suggest
14 though that you would get at a minimum a letter from them
15 indicating that they acknowledge that they're bound by the
16 existing agreement.

17 So there's some flexibility here for the
18 Executive Officer to decide if the necessary agreement is
19 in place.

20 PRESIDENT CARTER: Anything else, Mr. Sandhu?

21 LEVEE REPAIRS BRANCH CHIEF SANDHU: Thank you.
22 That's all.

23 PRESIDENT CARTER: Do we have any questions for
24 Mr. Sandhu?

25 BOARD MEMBER BURROUGHS: On the project I have a

1 question.

2 I'm a little bit confused. We've been discussing
3 about having vegetation on the waterside of the levee.
4 And here we have a new project that is going to put willow
5 poles or habitat.

6 BOARD MEMBER BROWN: Woody plants.

7 BOARD MEMBER BURROUGHS: Woody -- well, they said
8 willows.

9 BOARD MEMBER BROWN: That's woody.

10 BOARD MEMBER BURROUGHS: Are you considering
11 willows then? Is that a tree or a bush?

12 MS. NOELLE: It's a tree or a bush.

13 Yeah, this is -- the point is to provide
14 structures that will be in the water, you know -- the
15 structure will be on the toe and then it will provide
16 aquatic habitat in the water during high flows. And it's
17 a habitat feature that's important for the smelt. It's a
18 mitigation feature for the smelt.

19 PRESIDENT CARTER: Would the repairs then that
20 are being completed include some sort of a waterside
21 stability berm that these things -- these willows would be
22 planted on as opposed to the Corps levee prism?

23 MS. NOELLE: What they do is try to incorporate
24 soil into the project so there's something for the willows
25 to grow in.

1 PRESIDENT CARTER: Right. But your
2 cross-sections up on the screen right now show that the
3 vegetation is planted directly into the levee slope. The
4 question is: Is this an oversized levee slope, or are
5 these trees or bushes going to be planted and grow in the
6 Corps levee -- the levee prism, the defined cross-section
7 of the levee for that area, i.e., the 3-to-1 waterside
8 slope of the levee?

9 LEVEE REPAIRS BRANCH CHIEF SANDHU: Normally what
10 we do -- and it has happened on other projects too. We
11 are not going to plant trees on the main core section of
12 levee. That means the waterside slope and we will leave
13 ten feet of that area, and same thing on the landside
14 slope.

15 The foreseen bundles, they're not being provided
16 at the August -- levels. The areas already are considered
17 to be a part of the water where the water will rise to
18 that level. And those foreseen bundles are required from
19 regulatory agencies to provide shade. And in some
20 sponsors they have also asked us to build new benches and
21 provide IWMS. Those are the in-stream woody materials.
22 And this is all in the agreement with the Corps and also
23 Corps regulatory -- it's approved by Corps regulatory for
24 foreseen bundles in the lower levels and also in agreement
25 with the regulatory agencies.

1 BOARD MEMBER BROWN: Mr. Chairman?

2 PRESIDENT CARTER: Yes.

3 BOARD MEMBER BROWN: If you back up a couple
4 slides, I think you'll see that the heaviest erosion was
5 at the brow of the hill there on the waterside where those
6 trees existed.

7 Back up another one or two.

8 This just doesn't make sense to me, why we would
9 want to do that again, come in with any kind of a woody
10 plant on the waterside of a channel just absolutely
11 doesn't make any sense to me as an engineer.

12 BOARD MEMBER BURROUGHS: Well, and it doesn't
13 make sense -- it doesn't make sense with the Corps
14 standards and the directive that we've received this year.

15 PRESIDENT CARTER: My understanding of the
16 standards that the Corps has been involved in discussing
17 with the Resource Agencies with regard to the shaded
18 riverine habitat, which is critical to the aquatic
19 species, is that the new plantings will be made on
20 waterside stability berms or benches. And to the extent
21 that those don't exist, then other mitigation will take
22 place. And that mitigation can take the form of creating
23 a waterside bench in that on-site or mitigating on some
24 other bench in the system.

25 Is that what's happening or -- I mean what I'm

1 seeing on the screen is that you're planting directly on
2 the slope at the water elevation. But you're planting
3 directly on the slope of the levee, which is contradictory
4 and will may get us in trouble when those trees get to be
5 a point -- get to be two inches in diameter.

6 LEVEE REPAIRS BRANCH CHIEF SANDHU: No, this is
7 not DWR design. This is Corps Project PL 84. All these
8 sites, have been designed by Corps and approved by Corps.
9 And this is the way -- this is between the two branches of
10 the same organization. They are yet adding to each other,
11 repairing these sites this way. In contradiction with the
12 division policy, that between two branches of the Corps
13 and they're adding to this.

14 Now, DWR is only providing right of way to borrow
15 materials. Those are our certifications. As far as PL 84
16 programs is concerned, this is completely Corps design.

17 PRESIDENT CARTER: I understand, Mr. Sandhu. And
18 with all due respect, the Corps is a big organization and
19 they don't -- not everybody talks to each other all the
20 time. And so I still have a concern as to whether or not
21 this design that you've shown us today complies with the
22 existing Corps standards as they have discussed with the
23 rest of the Resource Agencies and DWR and this Board and
24 FEMA and local maintaining agencies.

25 LEVEE REPAIRS BRANCH CHIEF SANDHU: We will go

1 back and ask clarification from the PL 84 group on this.

2 PRESIDENT CARTER: Yeah. Our concern is that if
3 it does not, then at some point they will have to be
4 removed and we will have to mitigate for them again and
5 pay for that mitigation. And it will be more expensive
6 the next time around. So we don't want to shoot ourselves
7 in the foot by doing something that we're going to have to
8 redo later.

9 BOARD MEMBER BURROUGHS: Instead of woody
10 vegetation, would the fish habitat benefit from just
11 cattails in that area?

12 MS. NOELLE: There would be, but -- some stuff
13 will benefit from the stems of the cattails and the tules.
14 It won't provide shade.

15 SECRETARY DOHERTY: So we have a choice here. We
16 can deny and make a motion to deny the permit.

17 BOARD MEMBER RIE: Mr. President?

18 PRESIDENT CARTER: Yes.

19 BOARD MEMBER RIE: In defense of what they're
20 doing, the federal regulations 208-10 specifically allow
21 willows on the levees. I don't have a copy of it here. I
22 don't know if one of the attorneys has the copy of 208-10
23 with them. But willows are clearly allowed in the Corps's
24 regulations. And they are a trees, but they are
25 specifically accepted out of the policy. And this is

1 standard Corps design, standard Corps requirements.

2 Whenever you put riprap along the river banks, the Corps
3 always requires willow poles. It's the standard design.

4 So the same Corps that's telling you guys, "Well,
5 we don't allow any vegetation or any trees on the levees,"
6 it's in their regulations that it's excepted out. So,
7 granted they're dealing with the Regulatory Branch of the
8 Corps and I think you folks are talking to the Operations
9 Branch of the Corps. And you're absolutely right, they
10 don't always see eye to eye over there at the Corps. But
11 it is specifically allowed in their regulations.

12 I don't know if Ginny or Nancy can run and get a
13 copy of 208-10.

14 STAFF COUNSEL FINCH: I could go upstairs.

15 BOARD MEMBER RIE: Okay.

16 PRESIDENT CARTER: Mr. Punia.

17 EXECUTIVE OFFICER PUNIA: I just want to
18 elaborate a little more too, that the U.S. Army Corps of
19 Engineers is going to elaborate their design for the lower
20 two-thirds on the waterside slope. I think they are
21 indicating that there's no vegetation. But the fact of
22 the matter is that the Resources Agencies are demanding
23 that we cannot remove the vegetation from the waterside
24 slope for the shaded river aquatic habitat. So that issue
25 is still on the table. And as we have discussed at the

1 roundtable, this will be discussed as we develop the
2 long-term plan for the Central Valley.

3 So for time being, to continue to construct the
4 project, I think it's required on-site mitigation, and the
5 Corps acknowledges that, and we are moving forward with
6 these type of projects.

7 All the projects I was involved when I was in the
8 Bank Protection Group, we had the pole plantings to
9 accommodate the on-site mitigation requirement imposed by
10 the Resources Agencies.

11 BOARD MEMBER BROWN: Mr. Chairman?

12 PRESIDENT CARTER: Yes.

13 BOARD MEMBER BROWN: I don't want to hold the
14 project up. I want it to move on. But I'm not convinced
15 that it's in the state's best interest to go ahead and
16 plant woody plants on the waterside of the channel. But
17 I'm willing to consider additional evidence that could
18 support that, that it's beyond my engineering experience.
19 So I'd be willing to go ahead and approve the project, but
20 limit it to no plantings of the willows or any other woody
21 plants on the waterside of the project until we can be
22 convinced that it's in the state's best interest to do
23 that.

24 PRESIDENT CARTER: Okay. Is that a --

25 BOARD MEMBER BROWN: Would you like that in a

1 motion?

2 LEGAL COUNSEL CAHILL: You may need to realize
3 that that might change the project as described in the
4 underlying environmental documents.

5 LEVEE REPAIRS BRANCH CHIEF SANDHU: It's going to
6 impact not only this. This isn't going to impact all
7 programs. Critical erosion Program, Sacramento Bank
8 Protection Program, PL 84 Program. This is a major thing,
9 this is a major change, you know. It's just going to
10 impact what, 2 to 300 sites, the overall designs, Corps as
11 well as DWR.

12 BOARD MEMBER RIE: Another question.

13 You had mentioned earlier that we received
14 comments from Fish and Game and the Delta Protection
15 Commission. What were those comments and do we have a
16 copy of those?

17 MS. NOELLE: I have them with me. You don't have
18 them yet. I can grab them.

19 BOARD MEMBER RIE: Okay. Would you mind going
20 over some of the issues that were raised.

21 MS. NOELLE: Sure. Let me grab them.

22 I have the Fish and Game ones here.

23 Basically the comments -- they just wanted to
24 clarify the Delta smelt work window is August to November.
25 There was some initial -- the Corps was initially thinking

1 they could do the work in July. So that's been clarified.

2 On 536 they wanted an environmental check list.

3 A greater cumulative analysis discussion. And they

4 suggest that the trees greater than four inches should be

5 retained.

6 BOARD MEMBER BROWN: Greater than four inches?

7 MS. NOELLE: Greater than four inches.

8 BOARD MEMBER RIE: Whose comment was that?

9 MS. NOELLE: Impacts to trees greater than four
10 inches diameter at breast height should be disclosed --
11 removal of them would be disclosed. And that they
12 should -- if you remove them, they should be replaced at a
13 ratio of 3 to 1. That's from Fish and Game.

14 The Corps is saying they're not going to remove
15 the trees.

16 They asked for the Streambed Alteration
17 Agreement, which we are obtaining.

18 They discussed burrowing owl avoidance
19 mitigations and pre-construction surveys and also
20 pre-construction surveys and measures for Swainson's
21 Hawks.

22 And they wanted us to address the recent
23 candidate listing of long fin smelt, which should be final
24 in August, the final listing of that.

25 And then the same thing for RD 2098. They did

1 ask some questions on the rare plant species that could
2 have a potential to be on the levees as well.

3 And then this is the other one.

4 And the other one from the Delta Commission we
5 just got last -- yesterday, and I haven't really reviewed
6 it much. But I can grab it and take a look at it if you'd
7 like me to go over that one too. We just got it yesterday
8 afternoon.

9 BOARD MEMBER RIE: Do have copies for the Board
10 members?

11 MS. NOELLE: Yes.

12 PRESIDENT CARTER: Ladies and gentlemen --
13 anything more, Mr. Sandhu?

14 LEVEE REPAIRS BRANCH CHIEF SANDHU: No.

15 PRESIDENT CARTER: Mr. Punia.

16 EXECUTIVE OFFICER PUNIA: I think I just want to
17 clarify the Board's -- what we discussed at the
18 roundtable. That the Corps insisting that no vegetation
19 on the landside slope of the levee, no vegetation on the
20 ten-feet easement on the landside of the levee, and no
21 vegetation on the crown of the levee and no vegetation on
22 the top one-third portion of the waterside slope. But
23 they acknowledge that the two-thirds waterside slope, that
24 that issue needs to be discussed. At this time it's not
25 conclusive whether that vegetation is harmful or

1 beneficial to the levee. So that's going to be discussed
2 at a later date.

3 PRESIDENT CARTER: Well, just to clarify that
4 though.

5 Mr. Punia, as you recall, the framework talks
6 about any levee rehabilitation or major projects. And it
7 says that the new projects will comply with the existing
8 Corps standards. So in my mind the real question is what
9 is the standard and is all the Corps on the same page?
10 And, you know, if in fact 208-10 says willows are
11 specifically exempted from the no vegetation rule, then by
12 all means. But the framework says that when you're doing
13 levee rehabilitation projects, you are not going to do new
14 plantings. New plantings are not allowed.

15 EXECUTIVE OFFICER PUNIA: I think that's the
16 way -- my interpretation of the new project is the setback
17 levee when we are building a new levee from scratch, and
18 these are the existing levee where we are strengthening
19 the existing levee with trying to arrest erosion.

20 PRESIDENT CARTER: Okay. I think what we might
21 want to do -- if it is acceptable to the rest of the
22 Board, perhaps we could table this and try and check in
23 with a couple members of the Corps here in the Sacramento
24 district just to verify what their perspective is
25 on -- because they've got to be familiar with PL 84-99.

1 It's an old established program. The state has been a
2 partner in that program a long, long time. It's a very
3 important program for the state. But as far as these
4 vegetation mitigation issues, what's the appropriate
5 posture?

6 SECRETARY DOHERTY: Would it be possible to
7 delegate the authority to Mr. Punia if in fact we find out
8 that it is all right to plant?

9 BOARD MEMBER RIE: I don't think we can delegate
10 the authority to approve the Negative Declaration. I
11 think the Board needs to approve that.

12 SECRETARY DOHERTY: Then I suggest we put it off
13 till we find out for sure.

14 PRESIDENT CARTER: Why don't we table this and
15 revisit it this afternoon, give ourselves a chance to
16 check in with some folks here in Sacramento from the Corps
17 on it.

18 Is that okay with everyone?

19 Are you available this afternoon to come back?

20 MS. NOELLE: Yes.

21 PRESIDENT CARTER: Okay. Mr. Sandhu as well?

22 LEVEE REPAIRS BRANCH CHIEF SANDHU: Yes.

23 PRESIDENT CARTER: Okay.

24 BOARD MEMBER RIE: I move to table.

25 PRESIDENT CARTER: Okay. We have a motion.

1 Is there a second?

2 SECRETARY DOHERTY: Second.

3 PRESIDENT CARTER: Okay. All those in favor
4 indicate by saying aye.

5 (Ayes.)

6 PRESIDENT CARTER: And any opposed?

7 Motion carries unanimously.

8 Okay. Thank you very much. Appreciate your
9 patience.

10 Let's move on to Item 11 on our agenda.

11 Sacramento River Bank Protection Project - 2008 Erosion
12 Repairs.

13 Mr. Young. Good morning.

14 MR. YOUNG: Good morning, President Carter, Board
15 members and staff. My name is Kip Young. I'm an
16 environmental scientist under the Levee Repairs Branch.
17 Today I'm talking about the Sacramento River Bank
18 Protection Project for 2008. And there are eight proposed
19 sites for this year under the project.

20 And today in the audience is Jim Baker, the
21 Project Manager from the Corps of Engineers for Sac Bank;
22 Pal Sandhu, our Branch Chief; Grant Kreinberg from SAFCA;
23 and Dave Wheeldon, project engineer for DWR.

24 (Thereupon an overhead presentation was
25 Presented as follows.)

1 MR. YOUNG: Central Valley Flood Protection Board
2 is the CEQA lead agency as a non-federal sponsor for the
3 Sacramento River Bank Protection. There's a local
4 cooperation agreement between the U.S. Army Corps of
5 Engineers and the Board already established.

6 The bank protection measures to be implemented:

7 1) Protecting the toe of the bank with rockers
8 that went both below and above the mean summer water
9 level;

10 2) Placing one foot of soil fill and revetment
11 above the mean summer water level;

12 3) Placing additional and preserving in place
13 existing in-stream woody material clusters for fish
14 habitat; and

15 4) Planting pole-like container plants to
16 stabilize the bank and to provide a riparian habitat and
17 potential shade.

18 SECRETARY DOHERTY: Are you on this one or this
19 one?

20 MR. YOUNG: I am on that number.

21 SECRETARY DOHERTY: Pardon?

22 MR. YOUNG: I'm on that -- no, no, no.

23 Yeah.

24 SECRETARY DOHERTY: This one. All right. Thank
25 you.

1 MR. YOUNG: So I should be on the third slide of
2 that page.

3 SECRETARY DOHERTY: All right. Thank you. I
4 just -- you were speaking rapidly and not into the mike
5 and I couldn't hear you or understand.

6 MR. YOUNG: I apologize for that.

7 SECRETARY DOHERTY: Thank you.

8 --o0o--

9 MR. YOUNG: Site selection for this year's
10 repairs. The sites were chosen from reconnaissance
11 surveys of the Sacramento Flood Control System by DWR
12 engineers, Corps engineers, and Ayres, which is a
13 consultant for the Corps of Engineers in the a fall of
14 2007.

15 The erosion sites were ranked, and the report was
16 generated by Ayres at the end of 2007. Out of those
17 sites, 16 sites were chosen by the Corps for repairs under
18 the Sacramento River Bank Protection Project.

19 Three sites were postponed, either in 2009 or
20 2010. And so encroachment issues or the preferred
21 alternative -- or the preferred alternative was a setback
22 levee, which will take a little longer to design.

23 --o0o--

24 MR. YOUNG: The environmental document had 13
25 sites. But only eight sites are constructed for 2008.

1 I'm only talking about the eight sites. But there are
2 five additional that were included in the environmental --
3 or the initial study and the environmental assessment.
4 Those five sites, which will be constructed -- or will be
5 delegated for construction in 2009, are the Sac River Mile
6 16.8 - this was directly downstream at Isleton -
7 Sacramento River, 42.7 - it's right in front of the old
8 sugar mill north of Clarksburg - Sacramento River Mile
9 55.2, which is in the Pocket area; Sacramento River 77.2,
10 which is in North Natomas; and the Feather River, 25.8 in
11 Sutter County. And these sites were delegated due to
12 excessive encroachment issues and some real estate issues
13 also.

14 --o0o--

15 MR. YOUNG: So today I'm discussing these eight
16 sites, and I'll go into more detail about these sites.
17 But these are the sites. It's pretty hard to see on this
18 diagram. But there's one site in Cache Slough, which is
19 approximately northwest of Rio Vista, and that's 21.8;
20 Steamboat Slough, which is northeast of Rio Vista;
21 Sacramento River Mile 49.7; and Sacramento 52.3 or in the
22 Pocket area; Sacramento River Mile 53.5 is in West Sac,
23 two lower American River sites; and Sacramento River Mile
24 177.8. And it's a total of 5800 linear feet.

25 --o0o--

1 MR. YOUNG: The Cache Slough site at River Mile
2 21.8. This is in Solano County, and it's on Hastings
3 Island. There's a heavy tide influence which fluctuates
4 greater than four feet usually, it was added to the
5 erosion inventory in 2003, and it was upgraded to critical
6 in 2004. There are three erosion pockets and there are
7 two of them in those pictures, as you see.

8 There are a few small trees along the -- with
9 moderate brush cover. There are no elderberry shrubs.
10 And there's very little accumulation of IWM, which is
11 in-stream woody material.

12 --o0o--

13 MR. YOUNG: Steamboat Slough, River Mile 16.6, is
14 approximately two miles upstream of the Sacramento River
15 confluence. It's already the top of the sandy levee -- it
16 was added to the erosion inventory in 2007, upgraded to
17 critical in 2006. So there are few medium trees and
18 shrubs spread throughout the site. And it's mostly
19 grasses and forbs. No elderberry shrubs and just pockets
20 of IWM.

21 BOARD MEMBER BROWN: What's the significance of
22 the no elderberry shrubs? Or what do you mean by that?

23 MR. YOUNG: No elderberry issues. We don't have
24 to deal the fish and wildlife --

25 BOARD MEMBER BROWN: Oh, okay.

1 MR. YOUNG: -- and delaying project by permit.

2 BOARD MEMBER BROWN: All right.

3 MR. YOUNG: So the fewer, the better; or actually
4 none is probably the best bet.

5 -o0o--

6 MR. YOUNG: Sacramento River Mile 49.7,
7 Sacramento County, is in the Pocket area. Partially
8 appraised in 2006, but did not extend it to the erosion
9 pocket. The erosion is at the toe and the berm. There
10 are large trees the downstream end of the site. No
11 elderberry shrubs and no IWM accumulation.

12 BOARD MEMBER BROWN: Mr. Chairman, that's a
13 pretty good picture of expressing our concerns.

14 PRESIDENT CARTER: I don't know what kind of
15 trees those are. Do you know?

16 BOARD MEMBER BROWN: Well, they're trees.

17 MR. YOUNG: Those are -- I believe they're
18 cottonwoods.

19 PRESIDENT CARTER: Cottonwoods.

20 MR. YOUNG: Yeah.

21 PRESIDENT CARTER: It's different from willows.

22 BOARD MEMBER BROWN: That's true. But they're a
23 woody plant.

24 --o0o--

25 MR. YOUNG: Sacramento River Mile 52.3 is also in

1 the Pocket area. Erosion's at the toe and the berm.
2 There are large trees at downstream end. There are no
3 elderberry shrubs and very little IWM accumulation.

4 --o0o--

5 MR. YOUNG: The Sacramento River Mile 53.5 is
6 in -- it's a little bit south of the town of West Sac.
7 It's at the inside of the sharp bend in the river.
8 Erosion along the whole toe and bank.

9 There are two large trees. And in the Sacramento
10 River Bank Protection Project the large trees will be
11 protected in place if they're greater than four inches.

12 There no elderberry trees and some IWM
13 accumulation.

14 --o0o--

15 MR. YOUNG: Lower American River 0.3. This is
16 behind the Rusty Duck, if you know where that is.

17 Low velocity backwater reach influenced by the
18 Sacramento River high flows, which causes the erosion.
19 The erosion is into the toe. It's heavy recreation use
20 from Discovery Park -- or across the river at Discovery
21 Park and boaters, and also people going on the other side
22 of the levee.

23 There are many large trees. There are a sizable
24 elderberry shrub cluster near the site, which will be
25 protected and placed except for one plant that will be

1 relocated. There's a little IWM on the accumulation.

2 --o0o--

3 MR. YOUNG: Lower American River 2.8. This is
4 near the Sutter landing area. And It's a low velocity
5 backwater reach influenced by the Sac and it's similar to
6 0.3 Lows slope duration. There are many trees. No
7 elderberry shrubs. Little IWM accumulation.

8 SECRETARY DOHERTY: What does that mean?

9 MR. YOUNG: IWM accumulation?

10 SECRETARY DOHERTY: Uh-huh.

11 MR. YOUNG: That means there's really no large
12 trees, except for in this picture there is a large tree
13 which shall fall down and will establish itself as IWM, or
14 there are no -- there are no large woody trees already in
15 the system. So for the Sacramento Bank we have a protect
16 the IWM also including the trees for fish habitat.

17 SECRETARY DOHERTY: What's the acronym for?

18 MR. YOUNG: IWM? In-stream woody debris, also
19 called large woody debris.

20 SECRETARY DOHERTY: All right.

21 PRESIDENT CARTER: Woody material.

22 MR. YOUNG: Woody material. Sorry about that.

23 PRESIDENT CARTER: In-stream woody material.

24 Okay.

25 SECRETARY DOHERTY: You got it.

1 PRESIDENT CARTER: Got it.

2 --o0o--

3 MR. YOUNG: And again this is heavy recreation
4 use. And you can see in that -- the first slide you can
5 see a camper in the area with its tarp.

6 --o0o--

7 MR. YOUNG: Sacramento River Mile 177.8. It's in
8 Glenn County, and it's directly upstream of the Princeton
9 Cordora Pump, a pump facility. It's at the outside, a
10 little sharp bend in the river. There's a toe failure and
11 toe erosion. There are very few trees, they're medium
12 size. No elderberry shrubs and no IWM accumulation.

13 --o0o--

14 MR. YOUNG: And this is a typical cross-section.
15 All sites were hydraulically modeled to make sure there
16 was no impacts.

17 --o0o--

18 MR. YOUNG: Repairs that connected existing
19 revetment. So if there was areas where there's rock
20 placed, we made sure -- or the Corps designed -- the Ayres
21 designed the project to make sure they tie into those rock
22 revetments.

23 PRESIDENT CARTER: So is that red line the 3 to
24 1 --

25 MR. YOUNG: That is a 3-to-1 slope, but it

1 doesn't go into the levee prism. So there are areas
2 outside of the 3 to 1.

3 PRESIDENT CARTER: And above the rock it doesn't
4 meet the 3-to-1 standard, is that what you're saying? It
5 looks like the actual slope of the levee is below the
6 3-to-1 slope?

7 MR. YOUNG: From this cross-section.

8 PRESIDENT CARTER: And the waterline is that --

9 MR. YOUNG: -- the blue line, the surface mean
10 water --

11 PRESIDENT CARTER: That little turquoise line on
12 the right?

13 MR. YOUNG: Yes. And you'll see there's a
14 riparian bench. And my following slides will follow that
15 planting -- the typical planting scheme.

16 PRESIDENT CARTER: I'm sorry. I didn't
17 understand.

18 MR. YOUNG: My following slides will be a typical
19 planting scheme, which you'll --

20 PRESIDENT CARTER: Okay.

21 --o0o--

22 MR. YOUNG: So this is actually a Corps design.
23 This is -- for the Sacramento Bank Protection Project this
24 is how they design planting in -- planting on the
25 benches -- riparian and wetland benches. And this is for

1 below River Mile 30, which is considered in the Delta
2 area, to maximize the habitat for not only -- for listed
3 species including Delta smelt and salmonids they try to
4 establish a wetland bench.

5 BOARD MEMBER BROWN: Isn't this in conflict with
6 what we just heard what the Corps is asking for, the top
7 two-thirds to be clear?

8 MR. YOUNG: I thought it was the top one-third.

9 PRESIDENT CARTER: No, no, no, top one-third.

10 MR. YOUNG: Top one-third will be planted with
11 grasses -- they'll be hydroseeded with grasses.

12 The Zone 2A is a scrub shrub, which is not
13 considered large trees. So if they do fall in, they won't
14 take out the core of the prism -- the levee prism.

15 And the Zone 2B, if I go back, that's outside of
16 the 3-to-1 slope if you look at the riparian bench.

17 So larger trees can be planted on those
18 wetland -- on those riparian benches.

19 BOARD MEMBER BROWN: What's in the top third?

20 MR. YOUNG: Top third are grasses.

21 PRESIDENT CARTER: Grasses.

22 BOARD MEMBER BROWN: Looks like trees.

23 SECRETARY DOHERTY: Move just beyond that to the
24 right is supposed to be grass.

25 MR. YOUNG: My lines might be a little off on

1 this.

2 So this about the size -- and I'll show upstream
3 of the Delta, which is more --

4 BOARD MEMBER BURROUGHS: That's definitely big
5 trees there.

6 MR. YOUNG: But these aren't large trees. These
7 are shrubby trees. So if they do fall and -- if they do
8 fall from the levee, that the levee will repair itself.
9 There's enough rock that -- that the Ayres designed the
10 sites with enough rock that if the trees do fall in, that
11 the levee will repair itself.

12 SECRETARY DOHERTY: Smart levee.

13 BOARD MEMBER BURROUGHS: Before you move on that
14 slide.

15 MR. YOUNG: Yes.

16 BOARD MEMBER BURROUGHS: The other criteria that
17 the Corps is talking about is that when there are trees,
18 that there's the ability to inspect and flood fight. So
19 when you show a cluster of trees, that's really not within
20 the Corps standard for the new proposal.

21 PRESIDENT CARTER: It's my understanding on the
22 new standard is as long as they're trimmed up so that it
23 doesn't -- so that you can actually see the bank as
24 opposed to the branches covering your visibility to the
25 bank of the levee, they're okay, and as long as they're --

1 it's small or it's planted outside of the levee prisms.

2 BOARD MEMBER BURROUGHS: So in this particular
3 project who would be maintaining those trees for flood
4 protection purposes that have them trimmed up, do you
5 know?

6 MR. YOUNG: I'd have to refer you to --

7 BOARD MEMBER BURROUGHS: Pardon?

8 MR. YOUNG: I would have to refer you to someone
9 from the Corps --

10 LEVEE REPAIRS BRANCH CHIEF SANDHU: I can answer
11 that.

12 PRESIDENT CARTER: Mr. Sandhu, could you go ahead
13 and approach, please.

14 LEVEE REPAIRS BRANCH CHIEF SANDHU: First year
15 maintenance is in the contract. The construction contract
16 maintains in the first year. But two years Corps will
17 maintain. And after three years of completion, then it
18 comes back to the reclamation district. So first three
19 years under these programs are maintained. Same thing
20 with the DWR. If DWR is considering constructing
21 anything, first year is contractor, two years is DWR, and
22 after that is the reclamation district.

23 BOARD MEMBER BURROUGHS: Thank you.

24 PRESIDENT CARTER: So essentially it's maintained
25 by the project proponent for the first three years to

1 establish everything and then it's turned over to the
2 local maintaining agency.

3 BOARD MEMBER BROWN: Is this the same issue as
4 the prior one, Mr. Chairman? Or this different in some
5 way?

6 PRESIDENT CARTER: According to Mr. Young, any
7 tree planting will be planted outside the prism of the
8 levee -- prism cross-section of the levee. They'll be on
9 benches, as is shown there.

10 So that would be consistent with the standard.

11 MR. YOUNG: Those are large trees, not -- I mean
12 they're still shrubby trees. But the large trees will be
13 above the prism.

14 BOARD MEMBER BROWN: The benches, are they used
15 for flood flow purposes?

16 LEVEE REPAIRS BRANCH CHIEF SANDHU: Yes, water
17 can rise, benches can be covered in high flow season.

18 BOARD MEMBER BROWN: Okay. For the hundred or
19 200-year storm, how high up are you going to come in that
20 cross-section?

21 LEVEE REPAIRS BRANCH CHIEF SANDHU: These
22 existing levees, they are on the fifth -- you know, '57
23 design flood level, which is mostly in the areas is either
24 between 80- to 100-year level. And in non-urban areas
25 it's even lower than that, up to 50-year level.

1 BOARD MEMBER BROWN: Okay. How high up on those
2 benches does it come then with your design?

3 LEVEE REPAIRS BRANCH CHIEF SANDHU: It's
4 basically three-feet freeboard on the -- water can go up
5 to three-feet freeboard level.

6 BOARD MEMBER BROWN: So, under flood conditions
7 you're going to be flooding everything up there to within
8 three feet of the top of the berm.

9 LEVEE REPAIRS BRANCH CHIEF SANDHU: It's
10 possible.

11 BOARD MEMBER BROWN: Well, it's not possible.
12 It's the design, isn't it? Isn't that the design?

13 LEVEE REPAIRS BRANCH CHIEF SANDHU: Yes, that's
14 the design -- '57 design level.

15 PRESIDENT CARTER: So the vegetation would be
16 inundated.

17 Okay. Please proceed.

18 --o0o--

19 MR. YOUNG: And also there's the IWM component.
20 And Pal mentioned earlier in the other presentation that
21 there's also willow fascines. So willow plants. And also
22 there's large woody debris, which are mainly -- it depends
23 on the contractor, but a lot of times it's walnut trees.

24 --o0o--

25 MR. YOUNG: For the CEQA part of this discussion,

1 a draft EA/IS and a proposed Mitigated Neg Dec was
2 circulated for 30-day agency and public review May 9th to
3 June 9th. There were two public meetings. One -- and
4 these were put on -- this was put on by SAFCA in the
5 Pocket area on May 29th. And there was also presented by
6 the Corps and Ayres at the Lower American River Task Force
7 on June 10th. Agency comments were incorporated into the
8 final EA/IS and the Mitigated Neg Dec. And many of the
9 same comments that Mara handed out are the same for this
10 project also.

11 BOARD MEMBER RIE: Do we have a copy of those
12 comments?

13 MR. YOUNG: I do have copies, but I don't have
14 copies for the Board members. I can have those printed
15 out.

16 But I did summarize the comments, if that's
17 easier. Or I have the response to the comments. I'll
18 show you that in another slide.

19 --o0o--

20 MR. YOUNG: In summary, the sites are
21 self-mitigating for a state and federal list of species
22 except for there's a short-term impact based on a
23 fishery's model, which is called SAM, for Delta smelt,
24 which would be mitigated at a Corps mitigation site
25 already established at the Cache Slough and Yolo Bypass.

1 There is one other berry plant at the Lower American River
2 0.3, which will be removed and relocated to approved Fish
3 & Wildlife Service mitigation bank.

4 --o0o--

5 MR. YOUNG: So for Resolution 08-14: Now,
6 therefore, it is hereby resolved that the Central Valley
7 Flood Protection Board, acting in its own capacity as the
8 CEQA lead agency, adopt the Mitigated Neg Dec findings and
9 mitigated measures for the Sacramento River Bank
10 Protection Project, erosion repairs at Cache Slough, 21.8;
11 Steamboat Slough, 16.6; Sacramento River Mile 49.7;
12 Sacramento River Mile 52.3; Sacramento River, 53.5;
13 Sacramento River, 177.8; and Lower American River, 0.3 and
14 2.8; and approve construction of the project conditional
15 on the receipt of the necessary local assurance agreements
16 from the local maintaining agencies; and delegates
17 authority to the Executive Officer to sign the local
18 operation and maintenance and insurance agreements.

19 --o0o--

20 MR. YOUNG: And this is a typical -- I'm not sure
21 exactly what site, but this is what it looks like with --
22 a newly planted site with large woody debris.

23 --o0o--

24 BOARD MEMBER BURROUGHS: Could you go back to
25 that slide. I don't understand what you said.

1 MR. YOUNG: This is a post-construction photo of
2 the site --

3 SECRETARY DOHERTY: It's a what?

4 MR. YOUNG: -- with the large woody debris in
5 place at I believe it's -- sorry. It's IWM. I'm getting
6 my terminology crossed. But it's the in-stream woody
7 debris. And also there's a beaver fence that's protected
8 around the site to prevent the beavers from munching on
9 the newly planted plants, the revegetation.

10 SECRETARY DOHERTY: So on the left-hand side are
11 the new plantings and on the right-hand side is the woody
12 debris and the fence?

13 MR. YOUNG: The woody debris is placed at the
14 summer water surface elevation, I believe.

15 SECRETARY DOHERTY: And that's anchored?

16 MR. YOUNG: Those are anchored in to the bank.
17 There are different techniques. But I believe most
18 techniques that are now anchoring everything into the bank
19 so they don't float away.

20 BOARD MEMBER BURROUGHS: And the fence is
21 permanently placed there?

22 MR. YOUNG: It's a beaver fence. I'm not sure if
23 it's permanent, whether the -- the local agencies when
24 they do take over responsibility of the site whether they
25 upkeep the fence to prevent the beavers from coming over

1 and --

2 BOARD MEMBER BURROUGHS: Could you go back to the
3 slide, please.

4 MR. YOUNG: Sure

5 BOARD MEMBER BURROUGHS: Thank you.

6 But if we had -- if we wanted to do any flood
7 fighting on the waterside, the fence then also is a
8 problem for flood fighting?

9 LEVEE REPAIRS BRANCH CHIEF SANDHU: This is at
10 the lower level. This is at the water level. And you see
11 the IWMs, the in-stream woody materials. And these fences
12 are merely maintained in the first three years. And after
13 that, normally by that time the vegetation establishes.
14 That means the minimal impact in terms of beavers and
15 other animals are either dislocating those materials, the
16 in-stream woody materials -- so this is for protection and
17 mostly in the first three years.

18 SECRETARY DOHERTY: So for the first three years
19 we don't allow any floods, right?

20 LEVEE REPAIRS BRANCH CHIEF SANDHU: Well, these
21 are at the lower levels. Like normally at these levels --
22 your flood fights are mainly at the upper levels.

23 BOARD MEMBER BURROUGHS: So are the beavers on
24 the right side or the left side of that fence? You said
25 they're protecting the beavers.

1 LEVEE REPAIRS BRANCH CHIEF SANDHU: If you're
2 looking at the picture, they're on the right side.

3 PRESIDENT CARTER: They're not protecting the
4 beavers. They're protecting the new plantings from the
5 beavers.

6 BOARD MEMBER BURROUGHS: From the beavers. So
7 they stay on the left-hand side. Okay.

8 PRESIDENT CARTER: And the beavers are in the
9 river.

10 Okay. Any questions? Anything more?

11 MR. YOUNG: I do have some of the comments. I
12 could summarize some of the comments.

13 PRESIDENT CARTER: Okay. Please do.

14 MR. YOUNG: So we've got comments from the Native
15 American Heritage Commission. These were just to follow
16 up -- or actually these were already done. These were
17 database searches which were already completed in EA/IS.
18 But they just made sure that we followed what they wanted,
19 which we did.

20 And we got a comment from the State Lands
21 Commission concerns regarding specific production policies
22 of state and federal listed species, which were addressed
23 in the document.

24 Reduction and mitigation hydrology in the water
25 quality issues, which we're following the BMPs -- the

1 contractor will follow BMPs to reduce the water quality
2 issues.

3 PRESIDENT CARTER: BMPs and best management
4 practices?

5 MR. YOUNG: Best management practices.

6 And there's also a SWPPP, Surface Water
7 Protection -- Storm Water -- Storm Water Pollution
8 Prevention Plan.

9 PRESIDENT CARTER: Okay.

10 MR. YOUNG: And also long fin smelt and
11 mitigation measures, impacts for the species have been
12 included in the document. So they made a comment about
13 including long fin smelt, which was already included in
14 the EA/IS.

15 Fish and Game mentioned again what Mara mentioned
16 earlier is the work windows, which were included already
17 in the document. And they suggested adding mitigation
18 measures for -- and burrowing owls, which these have been
19 incorporated into the document.

20 And long fin smelt were also already included.

21 And some clarification on the SAM modeling, just
22 labeling on the table which measurements we're using. And
23 that was corrected in the document.

24 CalTrans wanted a traffic management plan, which
25 would be submitted by the contractor. So that will be

1 done by -- that will be completed.

2 And also the CalTrans requested the Corps work
3 with them directly for permitting similar coordination
4 efforts. They were -- CalTrans was concerned -- or
5 CalTrans wanted the Corps to do some work around some of
6 their bridges and to be in coordination with CalTrans.

7 And we got a letter from the Delta Protection
8 Commission, which most of those comments were already
9 included in the document itself and they were just -- it
10 was mainly just a follow-up letter saying they read the
11 document.

12 BOARD MEMBER BROWN: Mr. Chairman, can the
13 audience understand what's being said?

14 PRESIDENT CARTER: Okay. Maybe if you could just
15 speak a little bit louder and maybe a little bit slower.

16 BOARD MEMBER BROWN: And pull the mike in closing
17 to you.

18 PRESIDENT CARTER: And just a little bit slower.
19 That will help us.

20 MR. YOUNG: And those are pretty much all the
21 comments.

22 PRESIDENT CARTER: Okay. I have one comment, Mr.
23 Young. You made a very complete presentation. Your
24 slides were very detailed and they were hard to see on the
25 monitors and they were equally hard to see here for older

1 eyes. So if you could help us out by making -- or giving
2 us material that we can read better, that will help us
3 follow you through all this.

4 MR. YOUNG: Certainly, Mr. Carter.

5 PRESIDENT CARTER: Okay. Any questions for Mr.
6 Young or Mr. Sandhu?

7 BOARD MEMBER BROWN: I have maybe a comment, Mr.
8 Chairman.

9 It appears to me that what we're doing here is
10 mitigation. And the mitigation addresses the Endangered
11 Species Act, which generally trumps everything, except
12 maybe flood control. Our primary concern being flood
13 control, we're looking at these projects as how we can
14 best protect the people in the community with providing
15 adequate channelization and maintenance of those
16 facilities. And when you talk about mitigation, I don't
17 know what you're trying to mitigate when you look at
18 planting woodies, be they willows or whatever, in the
19 channels, that provides good habitat for a listed species,
20 namely, the Delta smelt. I'm not sure what that's
21 mitigating. If we're looking at trying to repair a
22 channel that's been damaged and put back so we can export
23 the flood waters, it seems that's pretty straightforward.
24 How do we get into providing habitat when we're doing this
25 for an endangered species if it is at the expense of

1 providing adequate flood control protection?

2 LEVEE REPAIRS BRANCH CHIEF SANDHU: Let me answer
3 you on that one.

4 When we start on a particular site, the existing
5 vegetation on that site is assessed, the percentage of
6 cover. And that's put into a SAM model, which is a
7 standard assessment methodology model. So when you do
8 construction, you have to take out some of the existing
9 vegetation.

10 BOARD MEMBER BROWN: Now, wait a minute. I
11 didn't understand. When you do what?

12 LEVEE REPAIRS BRANCH CHIEF SANDHU: When you do
13 construction, you have to do rock work, take out some of
14 this material --

15 BOARD MEMBER BROWN: Yes.

16 LEVEE REPAIRS BRANCH CHIEF SANDHU: And then when
17 you have rock and soil mix, then replant the vegetation
18 which you have taken out already from that site, that's
19 the site mitigation.

20 Well, to stabilize the embankment.

21 LEVEE REPAIRS BRANCH CHIEF SANDHU: Yes.
22 Wherever it is, the agencies want us one-to-one ratio
23 on-site mitigation that we must do.

24 BOARD MEMBER BROWN: And you're mitigating --
25 tell me what you're mitigating when you put back --

1 LEVEE REPAIRS BRANCH CHIEF SANDHU: Mitigating
2 for the existing vegetation before we went into
3 construction on that site.

4 BOARD MEMBER BROWN: Well, you're putting back
5 vegetation to stabilize the embankment, right?

6 LEVEE REPAIRS BRANCH CHIEF SANDHU: Correct.

7 BOARD MEMBER BROWN: Well, all right. I go along
8 with you on that. Go ahead.

9 LEVEE REPAIRS BRANCH CHIEF SANDHU: And if we
10 cannot do that in some of the sites where there are
11 elderberry bushes and that's a take, that means we have to
12 during construction take them out, then we have to do
13 off-site mitigation. That means replant those elderberry
14 bushes somewhere else.

15 BOARD MEMBER BROWN: Okay. The elderberry bushes
16 has some standing here. But go ahead with the willows.

17 LEVEE REPAIRS BRANCH CHIEF SANDHU: Willows is
18 again part of the shade, that is, percentage of shade
19 cover already existing on the river. And when you're
20 taking that out, you are supposed to provide the same
21 percentage of shade on the river. And now when you start
22 in the very beginning you're planting new trees --

23 BOARD MEMBER BROWN: Well, the willows cause the
24 erosion to begin with.

25 LEVEE REPAIRS BRANCH CHIEF SANDHU: That has not

1 been proved so far. The vegetation on -- there's been a
2 lot of research done on it. It has not been -- this was
3 discussed on the levee conference also, vegetation
4 conference. Vegetation may not be responsible for erosion
5 on these streams.

6 BOARD MEMBER BROWN: Mr. Chairman, this is
7 probably not the forum to discuss that issue. And I
8 apologize to you for that. But I would like to see our
9 staff to come back with a recommendation on this issue
10 that's really contentious to us obviously. And if
11 we're -- if we're sacrificing capacity in our channels for
12 flood control protection of the people in the community at
13 the expense or the benefit of providing habitat for an
14 endangered species, maybe that's all right. But we should
15 recognize it for what it is. And if that's what we wish
16 to do, then we go ahead and do it. But I don't think it's
17 the proper guise of saying that it's mitigation for
18 putting the channel back the way it was or in better
19 condition than what it was before or replacing material
20 that was in there that caused the damage to begin with. I
21 mean this needs some clarification.

22 And if this Board wants us to go ahead and
23 provide that kind of mitigation for an endangered species,
24 then that's fine. But we need to establish that as a
25 policy and not say we're doing it for the benefit of the

1 channel.

2 PRESIDENT CARTER: I appreciate your comments.

3 The mitigation is essentially required by law,
4 because it is -- during the process of construction or
5 levee repairs, erosion repairs, existing critical habitat
6 is destroyed or impaired. And so the mitigation is to
7 replace that, which is being removed as part of the levee
8 repair. That's required by either the state or the
9 federal law, depending on where the species is listed.

10 The question as to whether or not the vegetation
11 is causing the problem -- the erosion problem is one that
12 we don't have a definitive answer on. The engineering
13 community -- there's not general agreement in the
14 engineering community as to whether or not the
15 vegetation's causing or contributing to the erosion and
16 the problem. And that is something that is a topic of a
17 research effort that is being initiated by both the Corps
18 as well as SAFCA and other state participants. There just
19 is not a definitive answer on that yet. The science does
20 not conclusively say one way or the other.

21 So we don't have an answer, and staff can't
22 wouldn't be able to give you an answer until some of that
23 research is completed and there are conclusions drawn from
24 sound science.

25 So we're kind of caught in a Catch-22 here

1 really. And we need to -- we need to provide the
2 appropriate level of public safety but not at the expense
3 of the species. So we're trying to accomplish both, with
4 a combination of both of on-site mitigation as well as
5 some off-site mitigation for the endangered species. It's
6 kind of a -- it comes with the territory, I guess you have
7 to say.

8 So we'll continue to work that. And staff will
9 be participating in that -- in those research efforts and
10 so forth to try and answer those questions.

11 Anything else to add?

12 LEVEE REPAIRS BRANCH CHIEF SANDHU: No thanks

13 PRESIDENT CARTER: Any more questions for Mr.
14 Sandhu or Mr. Young?

15 What's the Board's pleasure?

16 BOARD MEMBER BURROUGHS: I have a question.

17 PRESIDENT CARTER: Oh, I'm sorry. Go ahead.

18 BOARD MEMBER BURROUGHS: Thank you.

19 There's a couple of concerns that I have with
20 this project. One being the fence. That's a pretty
21 substantial fence and it's pretty high, besides just
22 keeping -- I mean beaver don't climb that high for a
23 fence.

24 So the question was asked how long will the fence
25 be in place?

1 And, two, who will maintain that fence and who
2 will take down the fence?

3 LEVEE REPAIRS BRANCH CHIEF SANDHU: The first
4 year maintenance is by contractor, two years will be
5 either Corps or DWR, and after that is establishment of
6 the vegetation. And really if it's removed, it has
7 already served its purpose. But mainly we're concerned
8 with first three years.

9 BOARD MEMBER BURROUGHS: Okay. So two years.
10 But who then will remove the fence and be
11 responsible for removing the fence?

12 LEVEE REPAIRS BRANCH CHIEF SANDHU: That's
13 normally done between reclamation district and DWR/Corps
14 initiative. It if it needs to be removed at that time,
15 site is cleared of any debris. Then it's -- you
16 transition from one agency to the other agency.

17 PRESIDENT CARTER: So who decides whether it
18 remains in place or it is removed at the end of three
19 years?

20 LEVEE REPAIRS BRANCH CHIEF SANDHU: Either Corps
21 or DWR will decide this.

22 SECRETARY DOHERTY: Does it just float downriver?

23 LEVEE REPAIRS BRANCH CHIEF SANDHU: It can.

24 SECRETARY DOHERTY: But it says that any woody
25 debris collected is supposed to be removed from the

1 area -- out of the stream area. It's supposed to back out
2 over the bank.

3 LEVEE REPAIRS BRANCH CHIEF SANDHU: According to
4 regulatory -- the woody materials are not to be removed.
5 And if they accumulate in a certain area, they still stay
6 there. These are mostly the dislocated woody materials in
7 the stream. And they are not letting us remove those out
8 of those areas. And that's initial -- this is called an
9 initial propagation. And agencies, they like to continue
10 that way. Over centuries rivers have done that. Its
11 agencies have not really, you know, taken out woody
12 materials. And that's why you see, you know, a lot of
13 trees which have fallen down. They're still lying there
14 on the river banks. The trees which are taken out are the
15 ones which are impacting levee prism. If a tree falls
16 down within the levee prism, that's the one that's removed
17 from safety point of view.

18 BOARD MEMBER BURROUGHS: How many miles of fence
19 are there? Or how long is that fence?

20 LEVEE REPAIRS BRANCH CHIEF SANDHU: These are
21 individual sites. And that Sacramento Bank Protection
22 Program has 10,000 miles -- sorry -- 10,000 feet of
23 repairs that's going to be covered in these sites.

24 MR. YOUNG: This project is approximately 5,000
25 linear feet of repairs.

1 PRESIDENT CARTER: And are they all going to be
2 protected by fence?

3 LEVEE REPAIRS BRANCH CHIEF SANDHU: Yes.

4 MR. YOUNG: That is standard practice for
5 revegetation for most sites a long --

6 PRESIDENT CARTER: And what has been the past
7 practice in terms of removal of the fence? Or have they
8 been removed or have they just been abandoned?

9 LEVEE REPAIRS BRANCH CHIEF SANDHU: It depends on
10 what number of years. And some sites still -- like we
11 started on these emergency sites. All of them have
12 fences.

13 BOARD MEMBER BROWN: Tell me again what the fence
14 is mitigating?

15 LEVEE REPAIRS BRANCH CHIEF SANDHU: The fences
16 are for the protection of vegetation from beavers and in
17 terms of any damage to the site itself. We are supposed
18 to -- the way the monitoring of these sites is being done,
19 agencies have in their biological opinions --

20 BOARD MEMBER BROWN: The fence is going to keep
21 beavers out?

22 LEVEE REPAIRS BRANCH CHIEF SANDHU: Yes.

23 MR. YOUNG: During vegetation establishment, in
24 the spring and the summer. Beavers can get around in the
25 winter time. But most of those spots will be covered if

1 they get over the fence. But during the main growing
2 season the beaver fence will be protecting those plants.

3 PRESIDENT CARTER: Any other questions?

4 BOARD MEMBER BURROUGHS: Comment.

5 BOARD MEMBER RIE: Yes. The draft document says
6 that it's prepared for the U.S. Army Corps of Engineers
7 and our Board. Is the Corps approving this document as
8 well?

9 MR. YOUNG: They are writing a FONSI for it, yes.

10 BOARD MEMBER BURROUGHS: I can't hear.

11 MR. YOUNG: They're writing a finding of no
12 impact, a FONSI. So they are approving this project also.

13 BOARD MEMBER BROWN: They're writing a FONSI on
14 this?

15 MR. YOUNG: I believe.

16 BOARD MEMBER BROWN: You believe or they are?

17 MR. YOUNG: Yes, they are. I'm not sure if it's
18 been completed yet. But they are writing a FONSI for it.

19 EXECUTIVE OFFICER PUNIA: Maybe I can --

20 PRESIDENT CARTER: Mr. Punia.

21 EXECUTIVE OFFICER PUNIA: I think these are --
22 the Board PL 84-99 and the Sac Bank projects are the U.S.
23 Army Corps of Engineers sponsored projects, and we are the
24 non-federal sponsor. So they are the main designer on
25 these projects, the U.S. Army Corps of Engineers. DWR

1 coordinates with the Corps, but the Corps is main
2 designers and they take the lead and they develop their
3 mitigation plan and then they let the contracts for these
4 projects.

5 BOARD MEMBER BROWN: So the Corps drew up the
6 plans with the fence?

7 EXECUTIVE OFFICER PUNIA: That's correct.

8 BOARD MEMBER BROWN: Which office? Whereabouts?
9 Here in Sacramento or --

10 EXECUTIVE OFFICER PUNIA: Sacramento District
11 Office, yes. They may have hired a consulting firm or
12 they may have done it internally. They used to do the
13 in-house design. But lately with the staff reduction,
14 they are contracting out some of these works to private
15 consulting firms.

16 BOARD MEMBER BROWN: Did you have any input, our
17 staff?

18 EXECUTIVE OFFICER PUNIA: Yes, they shared the
19 design with us and the local maintaining agency, and then
20 they take that into their final design consideration, yes.

21 BOARD MEMBER BROWN: And I suspect from here on
22 out with those designs, you'll express our concerns that
23 we've had with their design?

24 EXECUTIVE OFFICER PUNIA: I think definitely,
25 yes, we will express those concerns. And these beaver

1 fences are pretty standard on the mitigation designs.
2 Their concern is that the young trees and -- that
3 otherwise the beaver will eat everything and nothing will
4 grow. So they tried to protect that vegetation by either
5 the cages or the fences.

6 BOARD MEMBER RIE: Mr. Punia?

7 EXECUTIVE OFFICER PUNIA: Yes.

8 BOARD MEMBER RIE: Did the Corps design the
9 planting layout?

10 EXECUTIVE OFFICER PUNIA: Yes. They do -- as
11 part of their mitigation design they have their landscape
12 architect -- they design the mitigation features, yes.

13 BOARD MEMBER RIE: And obviously the Corps
14 reviewed the planting?

15 EXECUTIVE OFFICER PUNIA: That's correct.

16 BOARD MEMBER RIE: Okay.

17 LEVEE REPAIRS BRANCH CHIEF SANDHU: Mr. Jim Baker
18 is the Program Manager for the Corps program, Sacramento
19 Bank Protection Program, and he's here. All these
20 designs, environmental as well as structural designs, were
21 done under his guidance.

22 PRESIDENT CARTER: Do you have any comments?

23 MR. BAKER: Concerning the question of whether
24 we'll sign a FONSI, that FONSI has been prepared. It has
25 not been signed yet. Only that is done after the Board

1 approves of the CEQA.

2 SECRETARY DOHERTY: Your name once again was --

3 MR. BAKER: I'm James Baker with the Corps of
4 Engineers.

5 SECRETARY DOHERTY: Thank you.

6 BOARD MEMBER RIE: You said you're with the
7 Corps?

8 MR. BAKER: Yes, ma'am, the Sacramento District.

9 BOARD MEMBER RIE: Is it the Corps's policy to
10 allow willows on the waterside of a levee?

11 MR. BAKER: My understanding that it is -- on
12 that portion of the levee that willows can be allowed.
13 And then on this project, it is being placed on the bench
14 that is being constructed, provided it's not in --
15 provided it's on the bench, I know that's allowed, because
16 it's not -- it doesn't interfere with the 3-to-1 --
17 normally a 3-to-1 slope of the levee.

18 BOARD MEMBER BROWN: I have a question for you.
19 You're in charge of the design?

20 MR. BAKER: I'm the project manager. I'm not the
21 designer.

22 BOARD MEMBER BROWN: The project manager works.
23 In your opinion then -- and you're an engineer
24 or --

25 MR. BAKER: Yes.

1 BOARD MEMBER BROWN: In your opinion, are we
2 sacrificing safety and capacity in our channels to
3 accommodate habitat?

4 MR. BAKER: We have -- this project was designed
5 by a contractor. And he does the hydraulic modeling to
6 ensure that the channel capacity does not change after the
7 project is in place. And so he takes into consideration
8 both the addition of the rock revetment, the bench that
9 we're --

10 BOARD MEMBER BROWN: Okay. I understand that.

11 MR. BAKER: -- and the plantings.

12 BOARD MEMBER BROWN: I understand that. I'm
13 asking you as a professional, do you believe that we're
14 sacrificing safety and capacity to accommodate habitat?

15 Yes, you know we are?

16 MR. BAKER: No, we're not.

17 BOARD MEMBER BROWN: Okay.

18 PRESIDENT CARTER: Any other questions?

19 Rose Marie, did you have a comment?

20 BOARD MEMBER BURROUGHS: My comment would be that
21 the fence is an issue for me personally. I just think
22 that it's a very hazardous condition. And without someone
23 taking the responsibility for it long term, it becomes a
24 problem in the future. And it would seem to me that with
25 beaver being able to swim during the wintertime and either

1 go around or through or over, I really wonder whether or
2 not that fence is intended for beaver or people. That's
3 just a comment.

4 SECRETARY DOHERTY: I have a question, if I may.

5 Is that fence -- is it a wire fence or is it a
6 mesh fence, a soft material?

7 It's a soft material, isn't it?

8 MR. YOUNG: It is a wire fence. I believe it's a
9 2 by 2 inch mesh size.

10 SECRETARY DOHERTY: Okay.

11 MR. BAKER: My understanding is that the fence is
12 three-feet high.

13 EXECUTIVE OFFICER: If I may.

14 I think the Corps has this experience. They have
15 tried various type of soft fences. But the beaver chew
16 the soft fences, so they have gone to the solid fence.

17 PRESIDENT CARTER: Any other questions?

18 Very good.

19 What's the pleasure of the Board on this one, to
20 consider approval of Resolution 08-14 to adopt a Mitigated
21 Negative Declaration findings and mitigation measures for
22 the Sacramento River Bank Protection Project Erosion
23 Repairs.

24 BOARD MEMBER RIE: I move to approve.

25 PRESIDENT CARTER: And the resolution also

1 approves construction of the project listed above.

2 We have a motion to approve the Resolution 08-14.

3 Is there a second?

4 SECRETARY DOHERTY: I'll second that.

5 PRESIDENT CARTER: Okay. We have a motion and a
6 second.

7 Any further discussion?

8 BOARD MEMBER BURROUGHS: I don't feel like I have
9 enough information to make a decision on this today.

10 PRESIDENT CARTER: Okay. Any other further
11 discussion?

12 What information do you lack, Rose Marie?

13 BOARD MEMBER BURROUGHS: I need to -- I would
14 like to research it further about the willows in the
15 planting, in particular.

16 For policy, for myself, it just goes against the
17 grain of common sense that we're mitigating for erosion,
18 and of course we don't know what the cause of the erosion
19 is. No one's willing to address that to possible trees.
20 But yet we have in place right now what we've been working
21 on for the last eight months the issue of losing
22 decertification based on vegetation on our levee system
23 here nationally. So it just -- until I can understand
24 that a little bit further, I have a real problem with
25 approving planting more trees when we haven't resolved

1 that issue with the Corps.

2 STAFF COUNSEL FINCH: Rose Marie, may I mention
3 something that's included in 208-10, it's under 208-10(b)
4 about willow planting. And it states, "When practicable,
5 measures shall be taken to retard bank erosion by planting
6 of willows or other suitable growth on areas" - word for
7 word - "of the levees."

8 I don't know if that helps you, but that is --

9 BOARD MEMBER BURROUGHS: -- Teri mentioned too.

10 Thank you.

11 PRESIDENT CARTER: Whether it's right or wrong,
12 these -- in this particular project I'm comfortable moving
13 ahead with a decision, because the vegetation's being
14 planted on benches, not on the levee prism, which is the
15 major concern. If we want to -- for public safety, we
16 need to protect the core prism. And the U.S. Army Corps
17 of Engineers agrees with that. And these plantings are
18 happening on benches outside of that cross-section.

19 Also, going up and down the river on tours, the
20 32 erosion sites that -- or 33 erosion sites that turn
21 into more than that in 2006, this was standard practice of
22 revegetating sections of repaired levee for shaded
23 riverine habitat, for some bank protection or bank erosion
24 protection. So I think it's -- I think this proposal is
25 following the standard operating procedure and complies

1 with the new -- or the -- not the new standards but the
2 existing Corps standards for vegetation on levees.

3 So I think we're -- in my opinion, I think we're
4 okay here.

5 BOARD MEMBER BROWN: I would hope that the
6 gentleman from the Corps would take back our concerns that
7 we have and make sure that we have the best interests in
8 mind for the people of California as it comes to flood
9 control issues and providing the best protection possible,
10 without the expense of trying to accommodate the
11 Endangered Species Act or the listed Delta smelt or
12 whatever it may be. I think it's important we keep the
13 project on schedule, keep it moving, such that we do have
14 flood control facilities at the earliest possible time and
15 not delay that.

16 But I'm really not satisfied with the answers
17 here today. And I've done a lot of ditch work in my
18 career, a lot of drainage work, and this just doesn't
19 sound or feel right. It may be, but it just doesn't sound
20 like it is. But I think it's important to keep the
21 project moving. But I'm not really comfortable with it.

22 MR. BAKER: Mr. Brown, I will ensure that your
23 comments are taken under consideration and relayed to my
24 office. I believe this is an important project. I
25 believe the design of both the structural portion of the

1 project and the plantings is a balance between the
2 environmental and engineering, and I believe it's a very
3 good design.

4 BOARD MEMBER BROWN: If you do that with my kind
5 regards, I would appreciate it.

6 MR. BAKER: Yes, sir.

7 PRESIDENT CARTER: Any other discussion?

8 Okay. We have a motion and a second to approve
9 Resolution 08 --

10 SECRETARY DOHERTY: I did approve it.

11 PRESIDENT CARTER: You seconded it.

12 SECRETARY DOHERTY: Yes.

13 PRESIDENT CARTER: A motion and a second to
14 approve Resolution 08-14, to adopt the Mitigated Negative
15 Declaration findings and mitigation measures for the
16 Sacramento River Bank Protection Project erosion repairs
17 and approve construction of the project.

18 Mr. Punia, would you call the roll, please.

19 EXECUTIVE OFFICER PUNIA: Board Member Teri Rie?

20 BOARD MEMBER RIE: Aye.

21 EXECUTIVE OFFICER PUNIA: Board Member John
22 Brown?

23 BOARD MEMBER BROWN: Aye.

24 EXECUTIVE OFFICER PUNIA: Board Member Rose Marie
25 Burroughs?

1 BOARD MEMBER BURROUGHS: Abstain.

2 EXECUTIVE OFFICER PUNIA: Board Member Lady Bug?

3 SECRETARY DOHERTY: Aye.

4 EXECUTIVE OFFICER PUNIA: Board President Ben
5 Carter?

6 PRESIDENT CARTER: Aye.

7 The motion carries with four ayes and one
8 abstention.

9 Very good.

10 Ladies and gentlemen, as for the agenda, we'll
11 break for lunch at this time. It's 12:30 We'll be back
12 here at 1:30.

13 Thank you.

14 (Thereupon a lunch break was taken.)

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1 AFTERNOON SESSION

2 PRESIDENT CARTER: Good afternoon, ladies and
3 gentlemen. Welcome back.

4 This is the Central Valley Flood Protection Board
5 meeting. And we are -- let's see, we tabled one item this
6 morning - that was Item 10, PL 84-99, Levee Rehabilitation
7 Project - to do a little bit of additional investigation.
8 Mr. Punia was able to get ahold of the program manager for
9 the PL 84-99 projects from the Corps and would like to
10 share some information with the Board.

11 Do we have Ms. Noelle and Mr. Sandhu -- are they
12 back yet?

13 MS. NOELLE: And we have the program manager for
14 PL 84-99 for the state.

15 MR. HAILE-SELASSIE: My name is Samson
16 Haile-Selassie. I am the project manager for the state
17 project

18 I'm sorry. My name is Samson Haile-Selassie.
19 I'm the project manager for the state PL 84-99 projects.

20 PRESIDENT CARTER: Okay.

21 SECRETARY DOHERTY: Would you please once more
22 say your name slowly.

23 MR. HAILE-SELASSIE: Samson Haile-Selassie. And
24 I do have a card to assist with spellings.

25 PRESIDENT CARTER: All right. What we'd like to

1 do, sir, is -- Mr. Punia, if you would just kind of share
2 what you heard during the break with the Board and members
3 of the public and staff. And then we'll probably have
4 some questions as well.

5 EXECUTIVE OFFICER PUNIA: I think based upon --
6 Jay Punia. Based upon our earlier discussion, I tried to
7 invite either Jim Sandner or Meegan Nagy or Larry
8 Bergmooser from the Corps so that they can come to the
9 podium and address the Board's concerns.

10 But the Corps staff is busy with their other
11 prior commitments, so they are not able to come to the
12 Board meeting. But we have a discussion with Larry
13 Bergmooser, who is the program manager for PL 84-99
14 program at the Corps.

15 He acknowledged that the species they are putting
16 as a mitigation, they are allowed under the Corps's
17 policy -- that the willows planting they're planning to
18 put as mitigation features are such a species that they
19 bend with the flow. They don't impede the flow. So they
20 are -- he's confirming that it's okay in the Corps policy
21 to put that kind of vegetations on the slope or on the
22 bench.

23 And, let's see, he again stressed that the Corps
24 policy allows that type of vegetation to be put on these
25 type of projects.

1 BOARD MEMBER BROWN: Are you talking about
2 elderberries or willows or both?

3 EXECUTIVE OFFICER PUNIA: Willows. He didn't
4 mention the elderberry. I think there are no elderberries
5 as part of this mitigation feature. They are willows.

6 MR. HAILE-SELASSIE: Yes, willows or vegetation
7 less dense than willows are the vegetation incorporated in
8 our designs.

9 PRESIDENT CARTER: So the -- well, I've listened
10 to the conversation. And what Mr. Berg --

11 EXECUTIVE OFFICER: Larry Bergmooser.

12 PRESIDENT CARTER: -- Bergmooser said was that
13 they are -- there is an exemption within the Corps
14 standard or guidelines with regard to vegetation, and it
15 has to do with shrubbery vegetation. And these willows,
16 this species of willows that they are proposing to plant
17 are classified as shrubs. They're -- at maturity -- at
18 full maturity tree trunks are no larger than four inches in
19 diameter. And they reach a height of no more than six to
20 eight feet.

21 BOARD MEMBER BROWN: What's the name of the
22 species?

23 PRESIDENT CARTER: I'm not familiar with it.
24 I've never seen a willow at maturity stays that way.

25 BOARD MEMBER BROWN: What's the name of it?

1 EXECUTIVE OFFICER PUNIA: I think maybe -- you
2 have the name?

3 MS. NOELLE: Well, I haven't seen the staff
4 landscape plan. But the sandbar willows are designed to
5 bend -- they grow in alluvial areas, right in where the
6 flood goes every -- the water goes every year. And
7 they're designed to bend and they don't get very large.

8 BOARD MEMBER BROWN: Is that the name of the
9 species, sandbar willows?

10 MS. NOELLE: That would -- I don't have the Latin
11 in front of me. But the sandbar willows are the ones that
12 bend and we've --

13 BOARD MEMBER BROWN: Would there be anything
14 wrong with being specific about what you're talking about
15 in the --

16 MS. NOELLE: It's not my landscape plan. I'd
17 have to access the plan. The Corps designed it, not DWR.

18 BOARD MEMBER BROWN: All right. So there's no
19 mistake in the future, if there's a species that doesn't
20 grow any larger than four inches in diameter, I would
21 think that it -- I'd like to see it named. And if you're
22 going to plant willows, then that specific willow will be
23 named within the permit itself.

24 MS. NOELLE: Right. Okay.

25 BOARD MEMBER BROWN: Yes. Can we have that?

1 MS. NOELLE: Sure.

2 BOARD MEMBER BROWN: Can we go ahead and make any
3 amend to what we've done here today, Mr. Chairman, to make
4 sure that happens?

5 PRESIDENT CARTER: It's the pleasure of the
6 Board.

7 BOARD MEMBER RIE: Well, if you go back to
8 208-10, the Corps doesn't differentiate the type of
9 willows. The Corps encourages the planting of willows,
10 period.

11 BOARD MEMBER BROWN: Well, if there's a willow
12 that has a size limitation of about four inches that
13 presumably would not impede the flow or cause erosion to
14 occur, and it has a name, so that there's no confusion in
15 the future then, why don't we just name it.

16 LEGAL COUNSEL CAHILL: One of the difficulties
17 here is you're not actually granting a permit for this
18 project. This is a Corps project. So you are certifying
19 the environmental document and then certifying the real
20 estate interests, and I guess signing an agreement with
21 the Corps. So what you might be proposing is an amendment
22 to the agreement with the Corps, which is extraordinarily
23 difficult to do.

24 I don't have an answer. I just kind of want --
25 this isn't where we just put a permit term in.

1 EXECUTIVE OFFICER PUNIA: And another piece of
2 information. Larry did confirm that the Corps
3 geotechnical and hydraulics people have reviewed these
4 designs and confirm that it's not compromising the
5 structural integrity of the project or having any negative
6 hydraulic impacts on the project.

7 BOARD MEMBER BROWN: That's no longer the issue.
8 We can -- we understand that. The issue now is, could we
9 or should we be specific to where there's no confusion by
10 whose doing the planting two or three years from now that
11 that's the type of willow that is intended to be planted.
12 That's the issue now.

13 EXECUTIVE OFFICER PUNIA: Yeah. I don't see any
14 problem in asking the landscape architect from the Corps
15 to name the type of the subspecies of the willow rather
16 than using a general term "willows".

17 PRESIDENT CARTER: Sir, you are the program
18 manager for PL 84-99 for the state?

19 MR. HAILE-SELASSIE: I'm the project manager,
20 yes.

21 PRESIDENT CARTER: The project manager. All
22 right.

23 Do you know what variety of willow this is that
24 we're talking about?

25 MR. HAILE-SELASSIE: I would have to defer to

1 Mara.

2 MS. NOELLE: No, I don't have the whole species
3 composition of the landscape plan in my head.

4 PRESIDENT CARTER: Okay.

5 MS. NOELLE: I would have to go research that.

6 BOARD MEMBER BROWN: Do you name it anywhere?

7 MS. NOELLE: Do I name it anywhere? I'm not the
8 landscape architect. There a landscape pallet.

9 BOARD MEMBER BROWN: In the documentation, is it
10 named anywhere in the documentation?

11 MR. HAILE-SELASSIE: It would be named on the
12 design. So we can -- this is information that you can
13 find out and furnish at a later stage.

14 EXECUTIVE OFFICER PUNIA: I have reviewed these
15 mitigation plans before in my previous job. There is a
16 detailed specific that what type of plants will be
17 planted.

18 PRESIDENT CARTER: Okay. What's the pleasure of
19 the Board here? We can approve the Resolution 08-13 adopt
20 the Mitigated Negative Declaration and findings and
21 mitigation measures for the PL 84-99 Rehabilitation
22 Project for Reclamation District 536. And also the same
23 for Reclamation District 2098. And we can approve the
24 Project Cooperation Agreement with the Army Corps of
25 Engineers and this Board.

1 BOARD MEMBER BROWN: Are you looking for one
2 motion or three motions?

3 PRESIDENT CARTER: I would take one motion to
4 approve the resolution, which takes those three actions.

5 BOARD MEMBER BROWN: Okay. I'll make that
6 motion, Mr. Chairman, with the caveat that we ask our
7 Executive Director to follow up with being specific about
8 what we're allowing or supporting, let's say, the type of
9 planting and that there's no confusion in the future that
10 we don't get some willow in there that is much larger than
11 what they've just described here. So on that basis, Mr.
12 Chairman, I so move.

13 PRESIDENT CARTER: Okay.

14 SECRETARY DOHERTY: I will second that.

15 PRESIDENT CARTER: Okay. We have a motion and a
16 second.

17 Just to clarify. I did forget there is a fourth
18 action in the resolution and, that is, to delegate to the
19 Executive Officer the authority to execute the Project
20 Cooperative Agreement with the Corps but only upon receipt
21 of the necessary signed local assurance agreements from
22 the maintaining agencies.

23 BOARD MEMBER BROWN: I'll include that in my
24 motion.

25 PRESIDENT CARTER: And also to the Executive

1 Officer delegate the authority to acquire property
2 interests to complete the project.

3 BOARD MEMBER BROWN: I'll include that in the
4 motion too.

5 PRESIDENT CARTER: Okay. Is that included in the
6 second?

7 SECRETARY DOHERTY: Yes.

8 PRESIDENT CARTER: Okay. Very good.

9 We have a motion and a second.

10 Is there any further discussion?

11 BOARD MEMBER RIE: I have a question.

12 You had mentioned earlier that you received
13 comments from several agencies the previous week. Have
14 you guys had enough time to incorporate their comments
15 into the final document?

16 MS. NOELLE: We are working on the Fish and Game
17 one. And the one from the Delta Commission we just got
18 yesterday afternoon and haven't addressed that yet. But,
19 yes, we're working on responses to comments for the Fish
20 and Game items.

21 BOARD MEMBER RIE: Okay. Because I think part of
22 the resolution was to incorporate the comments into the
23 final document. And if you haven't exactly done that
24 yet -- I guess I should defer to Ms. Cahill.

25 LEGAL COUNSEL CAHILL: I don't think the comments

1 have to be put in the final document, but they need to be
2 considered and somehow addressed. And my understanding is
3 that those comments were in fact passed out to you this
4 morning, so you've had a chance to look at them and
5 consider them. And I believe Ms. Noelle even explained
6 how they were addressed.

7 MS. NOELLE: Yes. Yeah, basically all the items
8 and the comments have been addressed in the environmental
9 documents. It's just maybe clarifying some of the
10 information, specifying certain methods --

11 LEGAL COUNSEL CAHILL: And if there's any doubt
12 about the letter from the Delta Protection commission, I
13 would suggest we look at it right now. I don't think
14 their comments really require any changes to your
15 environmental documents, but it would probably be good to
16 have that put on the record.

17 MS. NOELLE: They're looking at whether the
18 projects comply with the -- or are congruent with the
19 Delta plan they have.

20 BOARD MEMBER RIE: The one I was concerned about
21 was a comment from Fish and Game on cumulative impacts.
22 They were asking you to revise the Cumulative Impacts
23 section.

24 MS. NOELLE: Yes, we're working on that.

25 BOARD MEMBER RIE: You are working on it?

1 MS. NOELLE: Yes.

2 BOARD MEMBER RIE: Okay. And those comments will
3 be included in the final document?

4 MS. NOELLE: Or as a separate letter to Fish and
5 Game. We have to clarify how we're going to present
6 those.

7 BOARD MEMBER RIE: Okay.

8 LEGAL COUNSEL CAHILL: I think the Board needs
9 the final document to approve it. To approve the Neg Dec,
10 the document needs to be final.

11 MS. NOELLE: Okay.

12 LEGAL COUNSEL CAHILL: Any issues raised by other
13 agencies, you need to tell the Board how they're being
14 addressed.

15 MS. NOELLE: Correct.

16 LEGAL COUNSEL CAHILL: So if, for example, Fish
17 and Game has made a cumulative impact comment and you
18 believe the cumulative impact analysis already is
19 sufficient, then you tell the Board that's what we're
20 doing. But you can't complete the work after they've
21 approved the Neg Dec.

22 MS. NOELLE: Okay.

23 LEGAL COUNSEL CAHILL: So are there any issues
24 that were received that are not addressed?

25 MS. NOELLE: No. They're all addressed in the

1 environment document, and we've expanded the Cumulative
2 Impacts section.

3 BOARD MEMBER RIE: You've already done that?

4 MS. NOELLE: It's in progress. I've done a --
5 you know, it's being reviewed right now by my superiors.
6 So it's basically done and it will be done by the end of
7 the day.

8 LEGAL COUNSEL CAHILL: I think you need then to
9 tell the Board orally what the conclusions are so that
10 they have all the information that will be available --
11 the comments need to be addressed so that the Board is
12 aware of what the resolution is. So if there's a draft, I
13 think you need to summarize for the Board what you say in
14 it.

15 MS. NOELLE: Okay. I kind of did that earlier a
16 little bit, I went through it. I could do that again. I
17 don't have my draft with me, but I can go through the
18 letter again and do that.

19 SECRETARY DOHERTY: I have a question too.

20 MS. NOELLE: Yeah, they're about -- they're
21 basically the same. There's just one difference.

22 The first issue was regarding the Delta smelt
23 work window. And we are stating that it's August 1st to
24 November 30th.

25 The second issue was regarding plant species.

1 And the surveys were done during the wrong time of year,
2 so we have to make sure we confirmed that the plant
3 species are there or not during the correct time of year
4 when you can serve them and address those. If they are
5 there, then we're going to either protect them in place or
6 transplant them on to the levee somewhere else.

7 The third issue was impacts to treat trees
8 greater than four inches. We discussed that earlier.
9 They're protecting all the trees greater than four inches,
10 the Corps is.

11 The other issue was whether we're getting a
12 streambed alteration agreement. And that is basically in
13 progress.

14 SECRETARY DOHERTY: Pardon me. I thought you
15 said earlier -- first of all it came out you were going to
16 leave those and then it was -- the word "remove" came in
17 there for anything greater than four inches.

18 MS. NOELLE: Well, I was stating -- well, first I
19 was talking, you know, off the top of my head, then I
20 actually read the statement. That's what you heard
21 differently.

22 BOARD MEMBER BROWN: Was it four?

23 SECRETARY DOHERTY: Yeah, it was four but they
24 were going to remove them.

25 MS. NOELLE: Would you like me to read their

1 statement?

2 SECRETARY DOHERTY: Sure.

3 MS. NOELLE: Okay. "Impacts to trees greater
4 than four-inch diameter breast high should be disclosed
5 when determining avoidance, minimization, and mitigation
6 measures for tree impacts. GFG suggests that trees
7 greater than four inches deviates should be avoided. If
8 that's not feasible, they should replace at a 3-to-1
9 ratio." And the Corps is -- I confirmed with the Corps
10 that they are going to preserve those trees.

11 One of the other items was burrowing owl
12 mitigation. And, again, the initial reconnaissance level
13 survey wasn't done at the necessary time for the
14 observations. So they're asking that we do surveys right
15 before construction to confirm the presence or absence of
16 burrowing owls. And they a section on what to do if you
17 do find them. And we addressed that.

18 They brought up Swainson mitigation measures.
19 And we responded that we have been conducting some -- we
20 conducted surveys in May and we'll be doing
21 pre-construction surveys and avoiding the nesting period.
22 And we won't start construction until after the birds have
23 fledged.

24 The next section was on special status species.
25 Again, I mentioned before that they wanted us to address

1 the long fin smelt, and that they have a ruling in
2 February 7th of this year regarding the species, and it's
3 supposed to be finalized in August. So they're asking us
4 to start addressing the species in advance of the final
5 rule in August.

6 They just asked to rename a section Avoidance and
7 Minimization Measures, because actually that's what we're
8 doing. And we had called it like mitigation, and were
9 really not mitigating because we're not really removing
10 anything. We're just avoiding minimizing all the impacts.
11 So that's just a simple rewrite of the heading.

12 And then again the Cumulative Impacts sections,
13 they want us to beef-up that section and such, which we're
14 working on.

15 And that was for 2098.

16 And 536 was pretty much the same. I think
17 there's just one difference, as I recall. Let me flip
18 through it quickly. It might have been the difference in
19 this one.

20 Everything is exactly the same in 536. The only
21 thing, that 2098 had the addition of the rare plant
22 species - that was the only difference - and the headings
23 that they wanted changed.

24 So those are all issues --

25 LEGAL COUNSEL CAHILL: When you look at

1 cumulative impacts, will it be true that there will be no
2 new significant impacts?

3 MS. NOELLE: Correct. Because basically we're
4 putting the levee back to what it was before. You know,
5 the bare soils will not remain. There will be some
6 grasses put on them. Basically it's restoring to
7 pre-construction conditions -- or pre-erosion conditions
8 basically.

9 SECRETARY DOHERTY: And by this motion we are
10 delegating the Executive Officer to acquire property
11 interests to complete the project. Do we have any idea
12 how much property? Are you acquiring the use of the
13 property? Are you acquiring the fee -- or the title to
14 the property? How much property?

15 MS. NOELLE: That's a good question.

16 Do you know that answer?

17 LEVEE REPAIRS BRANCH CHIEF SANDHU: This is Pal
18 Sandhu. I'm Program Manager for this program.

19 In this case, PL 84, we are getting temporary
20 entry permits to perform construction the staging areas
21 which are going to be used during construction, parking
22 areas. And so in real sense we are not acquiring or
23 buying any property.

24 SECRETARY DOHERTY: So it's just the staging
25 area?

1 LEVEE REPAIRS BRANCH CHIEF SANDHU: Yes, the
2 staging areas and access roads and also access to the
3 construction area.

4 PRESIDENT CARTER: Any other questions?
5 Further discussion?

6 Okay.

7 BOARD MEMBER RIE: I just have one more question.

8 PRESIDENT CARTER: Go ahead.

9 BOARD MEMBER RIE: Normally our Board considers
10 approval and adoption of final EAs or final Mitigated Neg
11 Decs or final EIRs. And this a draft, and we don't have
12 the final document in front of us which incorporates the
13 other agency's comments. So I'm a little bit conflicted
14 on how we are going to approve the draft -- the final
15 document not having the final draft in front of us.

16 LEGAL COUNSEL CAHILL: I believe that the draft
17 has become the final. The draft circulated. It has
18 become the final. You didn't have to change it. Unlike
19 EIRs where you'd have to respond in writing to comments;
20 you don't have to respond in writing to the comments on a
21 Neg Dec. You just have to consider them and address them,
22 which it appears that they've done.

23 So the copy that you have is in effect the final.
24 There won't be an additional document.

25 BOARD MEMBER RIE: Okay. Could you come up one

1 more time.

2 MS. NOELLE: Sure.

3 BOARD MEMBER RIE: Again, the comment from Fish
4 and Game was to include a cumulative impact analysis of
5 all the repair throughout the Sacramento River. And this
6 particular set of analysis was just for the project only.
7 So Fish and Game wanted to see all of the impacts included
8 in the cumulative analysis section. That's not included
9 in the draft document in front of us. So are you revising
10 that section?

11 MS. NOELLE: It will be in a separate letter
12 responding to them. We'll be providing them with the
13 information. We can provide that as well to the Board so
14 you have the complete version. But it will be responded
15 in a separate letter to their letter.

16 BOARD MEMBER RIE: So do you plan on changing the
17 Cumulative Analysis section of this document?

18 MS. NOELLE: No, there won't be any changes.
19 It'll just be in addition to.

20 BOARD MEMBER RIE: Okay.

21 MS. NOELLE: We'll expand on various topics.

22 BOARD MEMBER RIE: Okay.

23 PRESIDENT CARTER: Any other questions?
24 Discussion?

25 Mr. Punia, would you call the roll please.

1 BOARD MEMBER BURROUGHS: I did have one more.

2 PRESIDENT CARTER: Sorry.

3 BOARD MEMBER BURROUGHS: After the construction
4 and it goes to the local maintaining agencies, will there
5 be language that specifies about their maintenance of the
6 fence and the trees to the new Corps standards?

7 PRESIDENT CARTER: I think you're thinking of
8 Item 11 instead of Item 10.

9 BOARD MEMBER BURROUGHS: I meant for the
10 maintaining of the trees when they --

11 SECRETARY DOHERTY: There's a three-year
12 contract.

13 BOARD MEMBER BURROUGHS: Yeah, I know the three
14 years. After the three years.

15 PRESIDENT CARTER: After the three years will
16 there be --

17 BOARD MEMBER BURROUGHS: It goes back to the
18 local maintaining agencies.

19 PRESIDENT CARTER: It reverts to the local
20 maintaining agency.

21 BOARD MEMBER BURROUGHS: And I'm just asking if
22 there's language that they understand about their
23 requirement to maintain those trees to the Corps
24 standards.

25 PRESIDENT CARTER: Well, there's typically an O&M

1 manual for all of these levees that the local maintaining
2 agency uses as a guideline to maintain their levees. And
3 presumably these are erosion repairs on existing levees,
4 and so the O&M manual applies to the levee and the
5 repairs.

6 BOARD MEMBER BURROUGHS: I understand that. What
7 I am trying to accomplish here with my question is making
8 sure that we have good communication that we're all
9 working towards the same goal. And with the new -- with
10 the Corps's new requirements, while it's been on the books
11 forever, I just wanted to make sure that the language was
12 clear to the new maintaining agencies when they take on
13 this new project of maintaining the trees that are going
14 to be planted.

15 BOARD MEMBER BROWN: And they commit.

16 BOARD MEMBER BURROUGHS: Right.

17 PRESIDENT CARTER: So I guess, are you asking for
18 something in addition to what we're already doing?

19 LEVEE REPAIRS BRANCH CHIEF SANDHU: I can respond
20 to that. Any trees, any species which have been planted
21 under the biological opinion and that's part of the
22 construction mitigation will be retained and passed on to
23 the reclamation districts. In three years time period if
24 they're growing the same way -- and regulations require
25 that the reclamation districts or the maintaining agencies

1 would not be destroying those trees or species and they
2 will leave them alone.

3 BOARD MEMBER BURROUGHS: I guess for me it's a
4 practical sense of just, you know, passing -- just passing
5 the buck over and over and over again. And we're back to
6 the same problem of, we don't have maintenance on the
7 levees because people can't afford to maintain by the
8 requirements that are imposed on them. And I just want to
9 make sure that as we continue to construct, that we do
10 have buy-in and agreement that when this is all passed on
11 to the next agency, that they will be able to in fact
12 maintain; not that they've just been -- dumped it on their
13 lap and said, "Okay, here you go," and then we're back
14 here another ten years again with erosion problems that we
15 have to deal with.

16 LEVEE REPAIRS BRANCH CHIEF SANDHU: Maintenance
17 means that once -- they are being given to a maintenance
18 agency, they will leave it there, they will destroy it.
19 That means no cutting of the species. By natural --
20 suppose the trees start dying. It's not a requirement to
21 the reclamation districts that they replace those trees.

22 PRESIDENT CARTER: I think that -- I mean the
23 intention is not to create more work for the local
24 maintaining agencies. The intention is to turn over a
25 good structurally sound levee to them in the same or

1 better condition than it was received. And so I think the
2 expectations on maintenance are not changing. Should the
3 local maintaining agency not be able to maintain the levee
4 to the standards, the state then has the option to do the
5 maintenance and bill it to the locals or create a
6 maintenance area and do it itself and subsequently bill
7 the locals. So there are mechanisms by which the state,
8 who does the levee inspections, can attempt to ensure that
9 the levees are being maintained properly.

10 Any further questions, comments?

11 Mr. Punia, would you call the roll please.

12 EXECUTIVE OFFICER PUNIA: Board Member Teri Rie?

13 BOARD MEMBER RIE: Aye.

14 EXECUTIVE OFFICER PUNIA: Board Member John

15 Brown?

16 BOARD MEMBER BROWN: Aye.

17 EXECUTIVE OFFICER PUNIA: Board Member Rose Marie

18 Burroughs?

19 BOARD MEMBER BURROUGHS: Abstain.

20 BOARD MEMBER BROWN: Board Member Lady Bug?

21 SECRETARY DOHERTY: Aye.

22 EXECUTIVE OFFICER PUNIA: Board President Ben

23 Carter?

24 PRESIDENT CARTER: Aye.

25 Motion carries, four ayes, one abstention.

1 Very good. Thank you.

2 Thank you very much.

3 Okay. Now we're moving on to Item 12, the
4 Interagency Agreement for Independent Legal Services to
5 the Board.

6 Ms. Pendlebury.

7 Good afternoon.

8 STAFF ASSISTANT PENDLEBURY: Good afternoon,
9 President Carter and members of the Board. I'm Lorraine
10 Pendlebury of the Board staff.

11 And I'm here before you to ask for your approval
12 to delegate authority to the Executive Officer to execute
13 an interagency agreement being drawn up between the Board
14 and the Department of Justice's Attorney General's Office.

15 This contract between the two agencies will
16 provide legal services to the Board for fiscal year
17 2008-2009. Up until October of 2007 when new flood
18 legislation was signed by the Governor, legal counsel was
19 provided to the Board by Scott Morgan and Nancy Finch of
20 the Department of Water Resources.

21 The new legislation, which took effect January
22 1st of this year, allows the Board to seek independent
23 counsel, and the Board chose to do that.

24 The Attorney General's Office was contacted and
25 they made two part-time attorneys available to the Board

1 at no cost from January 1st to June 30th, 2008, which is
2 the end of the state's fiscal year. Virginia Cahill and
3 Deborah Smith are the two attorneys.

4 The arrangement has worked out well, and the
5 Board expressed an interest in seeking a formal contract
6 with the Attorney General's Office. The funds have been
7 set aside in the new budget to be signed by the Governor.

8 Under the new agreement, legal counsel would be
9 provided by Virginia Cahill, who is well versed and
10 experienced in water issues. In addition, Nancy Finch
11 will continue to provide significant levels of legal
12 support to the Board on matters such as real estate
13 transactions, environmental compliance issues, agreements
14 with federal and other state agencies on behalf of the
15 Board, drafting the revised regulations, and any other
16 legal issues when requested.

17 The contract with the Attorney General's Office
18 includes a scope of work, cost breakdown for services, and
19 pretty standard terms of the agreement, all of which have
20 been provided to you in your Board packets.

21 At this point, I would like to ask the Board to
22 consider approval of delegation of authority to the
23 Executive Officer to execute this interagency agreement
24 for legal service to the Board.

25 Ginny Cahill, Nancy Finch, and I are available

1 for questions if there are any.

2 Thank you.

3 PRESIDENT CARTER: Thank you.

4 Any questions for Ms. Pendlebury or Ms. Cahill?

5 BOARD MEMBER BROWN: No questions. But that was
6 very well presented. Thank you.

7 STAFF ASSISTANT PENDLEBURY: Thank you. My first
8 presentation before the Board. Thank you.

9 BOARD MEMBER BURROUGHS: I have a comment.

10 PRESIDENT CARTER: Yes.

11 BOARD MEMBER BURROUGHS: I'd like to say that it
12 has been an absolute wonderful addition to our Board to
13 have you part of our team. Thank you.

14 LEGAL COUNSEL CAHILL: Thank you.

15 PRESIDENT CARTER: Any other questions?

16 Comments?

17 BOARD MEMBER RIE: Yeah, I have some questions.

18 And I echo what Rose Marie said. You've been great.

19 By question is -- there's a couple items in here
20 that DWR on a regular basis provides legal counsel. So
21 I'm just wondering - maybe, Nancy, you can answer this
22 question - is there some overlap here between what we're
23 contracting with the Department of Justice and what DWR is
24 already doing for us?

25 STAFF COUNSEL FINCH: There may be overlap but

1 it's not duplicity of work. We work -- I think Ginny and
2 I work together closely. And some issues are clearly
3 mine, some are clearly hers. We work together but never
4 do we duplicate work.

5 Does that answer your question?

6 BOARD MEMBER RIE: So is DWR okay with this?

7 STAFF COUNSEL FINCH: Yeah, DWR has been
8 negotiating this.

9 BOARD MEMBER RIE: Okay. And then a more
10 specific question. Number 5, in providing legal
11 assistance to draft legislation, don't we have a whole
12 group at DWR who specifically does that already?

13 STAFF COUNSEL FINCH: Now, is that DWR that will
14 do that work or the AG's Office?

15 BOARD MEMBER RIE: Well, I think DWR already
16 provides the services outlined in Item No. 5. There are
17 several DWR counsels who work on legislation on a
18 full-time basis.

19 STAFF COUNSEL FINCH: Yeah, Ginny, may want to
20 answer this.

21 LEGAL COUNSEL CAHILL: We'll do what's necessary.
22 I have in fact worked with the Executive Officer and
23 sometimes the Board President to discuss with Kasey
24 Schimke at DWR proposed legislation. Sometimes we've
25 provided draft language. It's a very small part of what

1 we do, but I think it's important to have the ability to
2 do some of it.

3 STAFF COUNSEL FINCH: Yeah, and I agree with
4 that.

5 BOARD MEMBER RIE: I'm just wondering if there's
6 any conflicts. Because I know that Kasey has several
7 attorneys that work full time on legislative matters. So
8 I just wanted to make sure there was no duplication of
9 efforts.

10 STAFF COUNSEL FINCH: I think there is good
11 communication with Ginny -- between DWR legal and the AG
12 Office. And so we know what each other is doing, with
13 bill analysis as well.

14 BOARD MEMBER RIE: And you guys are all
15 coordinating?

16 LEGAL COUNSEL CAHILL: Yes.

17 BOARD MEMBER RIE: Okay.

18 PRESIDENT CARTER: Just to add to any kind of
19 response. Your first question regarding whether or not
20 DWR is comfortable with that and DWR is providing legal
21 services, we are currently negotiating a long-term MOA
22 with DWR that specifies in relatively general terms the
23 scope of the legal services that DWR will be providing the
24 Board. And I believe they are comfortable with that
25 language. It's essentially the same as what we -- the

1 language and the relationship with DWR Legal does not
2 change from the long-term MOU -- or from the short-term
3 MOU that we have to the long term.

4 BOARD MEMBER RIE: Okay.

5 PRESIDENT CARTER: And what we're doing here is
6 just basically formalizing an agreement whereby we can now
7 begin to pay the AG's Office for the services that we're
8 getting because their pro bono contribution to the Board
9 ends this month.

10 Let's see. Your second question was regarding
11 the legislation support. The Executive Committee of the
12 Board has taken a posture of trying to be more proactive
13 about responding to legislation and giving the
14 Administration feedback on the Board's perspective on
15 legislation. And Ginny has been a key part of that in
16 terms of helping us draft language or proposed language
17 that would amend legislation, which we then pass through
18 the Administration. And in this way we are maintaining
19 that arm's length relationship with DWR and some
20 independence with DWR with regard to legislation that
21 specifically applies to the Board.

22 And so that's why Ginny has taken a more active
23 role in helping the Board respond to and provide feedback
24 on legislation that impacts the Board. So that's the
25 change. We're just being a little more proactive than we

1 have in the past.

2 BOARD MEMBER RIE: Okay. And I have one more
3 question. This is the final question.

4 When it comes to defending the Board against
5 lawsuits, do we have to take money out of our budget to
6 pay the Department of Justice for that? Or does the
7 Department of Justice pick up those costs?

8 LEGAL COUNSEL CAHILL: I think those would be
9 included in this. It's quite possible that in a given
10 year we will exceed the amount in this contract and you
11 will end up with some extra services that we can't charge
12 for. But litigation is listed as one of services provided
13 in the agreement.

14 BOARD MEMBER RIE: You guys don't do that out of
15 your budget?

16 LEGAL COUNSEL CAHILL: No.

17 BOARD MEMBER RIE: Okay.

18 PRESIDENT CARTER: I think in the past we've
19 gotten litigation support and representation from the
20 Attorney General's Office through DWR and DWR has foot the
21 bill for that.

22 In this new world, we may end up having to come
23 up with some funds.

24 BOARD MEMBER BROWN: I notice, Mr. Chairman, that
25 only about \$1100 is being charged to our Board. That's

1 about half time. Is that what we're figuring?

2 PRESIDENT CARTER: I think, Ginny, you're two and
3 a half --

4 LEGAL COUNSEL CAHILL: That was based on
5 two-thirds of an attorney at the Attorney General's
6 Office.

7 BOARD MEMBER BROWN: Is that sufficient?

8 LEGAL COUNSEL CAHILL: No. But it's what's
9 budgeted.

10 (Laughter.)

11 LEGAL COUNSEL CAHILL: We'll make it work.

12 PRESIDENT CARTER: One question.

13 Ginny, you're planning on being here for the
14 duration of this agreement?

15 LEGAL COUNSEL CAHILL: I am not committing to be
16 here for the entire time. But I have no current plans to
17 retire. I am of retirement age and I reserve the right to
18 do that.

19 (Laughter.)

20 LEGAL COUNSEL CAHILL: But I don't have any
21 current plans to do so.

22 PRESIDENT CARTER: Okay. Very good, very good.

23 I want to echo the rest of the Board's sentiments
24 in that it's been a pleasure working with you. And you
25 have provided us excellent support and guidance.

1 So as long as you're continuing, I'm okay with
2 it.

3 (Laughter.)

4 PRESIDENT CARTER: Okay. Any other further
5 discussion?

6 All right. Mr. Punia, would you call the -- do
7 we have a motion? I don't -- no, we don't have a motion
8 yet.

9 BOARD MEMBER BROWN: I'll so move, Mr. Chairman.

10 PRESIDENT CARTER: Okay. We have a motion to
11 delegate the authority to the Executive Officer to execute
12 the interagency agreement between the Central Valley Flood
13 Protection Board and the Department of Justice for
14 providing independent legal services to the Board.

15 Is there a second?

16 Did somebody second?

17 SECRETARY DOHERTY: I will.

18 PRESIDENT CARTER: Lady Bug seconds.

19 Okay. Any further discussion?

20 Mr. Butler.

21 SENIOR ENGINEER BUTLER: Thank you. This is an
22 administrative question.

23 Lorraine, did I hear you say that this
24 interagency agreement, which is a form of a contract, is
25 only for one fiscal year, 2000 --

1 STAFF ASSISTANT PENDLEBURY: Yeah.

2 SENIOR ENGINEER BUTLER: So am I to understand
3 that this would have to be renewed on an annual basis?

4 STAFF ASSISTANT PENDLEBURY: I think so.

5 SENIOR ENGINEER BUTLER: Is there any way to do a
6 multiyear?

7 STAFF ASSISTANT PENDLEBURY: Do we have the funds
8 allotted for it?

9 SENIOR ENGINEER BUTLER: Well, this is all
10 assuming the budget change proposal that's in the
11 Governor's budget gets approved as part of the new state
12 budget. So once it's in there, it's in our baseline,
13 which is a renewable budget every year. So I was just
14 kind of asking a question on the Board's behalf if it's
15 possible to do this over, say, a two- or three-year period
16 and not have to bring this back on an annual basis, if
17 that were your pleasure.

18 STAFF ASSISTANT PENDLEBURY: Eric, the 200,000
19 that you have in the budget, did that just cover one -- I
20 assumed that it covered one year.

21 SENIOR ENGINEER BUTLER: No, that will become --
22 subject to its approval, that will become part of our
23 baseline budget, which is renewable annually. It will
24 become part of our General Fund baseline budget.

25 EXECUTIVE OFFICER PUNIA: I think what Eric is

1 saying, that we have worked on the agreements before. So
2 if we can get a multiyear approval from the Department of
3 General Services, that will facilitate not coming back to
4 the Board every year. So if the Board can grant us the
5 permission to go with a multiyear contract, that will be
6 helpful.

7 PRESIDENT CARTER: Does the motioner have a
8 problem with a multiyear contract?

9 BOARD MEMBER BROWN: No, not at all. I would add
10 that to my motion, Mr. Chairman.

11 PRESIDENT CARTER: Okay. And the seconder?

12 SECRETARY DOHERTY: Yes.

13 PRESIDENT CARTER: Okay. Agreed.

14 Okay. Thank you.

15 Any other discussion?

16 Mr. Punia, would you call the roll please.

17 EXECUTIVE OFFICER PUNIA: Board Member John
18 Brown?

19 BOARD MEMBER BROWN: Aye.

20 EXECUTIVE OFFICER PUNIA: Board Member Rose Marie
21 Burroughs?

22 BOARD MEMBER BURROUGHS: Aye.

23 EXECUTIVE OFFICER PUNIA: Board Member Lady Bug?

24 SECRETARY DOHERTY: Aye.

25 EXECUTIVE OFFICER PUNIA: Board Member Teri Rie?

1 BOARD MEMBER RIE: Aye.

2 EXECUTIVE OFFICER PUNIA: Board President Ben
3 Carter?

4 PRESIDENT CARTER: Aye.

5 The motion carries unanimously.

6 Thank you very much.

7 EXECUTIVE OFFICER PUNIA: We're ahead of schedule
8 ten minutes.

9 PRESIDENT CARTER: We're ten minutes ahead of
10 schedule?

11 EXECUTIVE OFFICER PUNIA: Uh-huh.

12 PRESIDENT CARTER: Okay.

13 BOARD MEMBER RIE: Are we discussing Item 13?

14 SECRETARY DOHERTY: No.

15 PRESIDENT CARTER: No, 13 was pulled from the
16 agenda under Approval of the Agenda this morning, Item 3.
17 That was postponed at the request of DWR.

18 BOARD MEMBER RIE: Do we have anybody in the
19 public who came for that specific item?

20 EXECUTIVE OFFICER PUNIA: We informed the
21 applicant and the local people who were interested in this
22 that this item will be pulled.

23 PRESIDENT CARTER: Okay. So maybe, Jay, if you
24 could give your report on the Activities of the Executive
25 Officer.

1 EXECUTIVE OFFICER PUNIA: I'll be glad to do
2 that.

3 PRESIDENT CARTER: Actually our -- I see there
4 are some folks from San Joaquin. We had some extra time
5 in the morning. We did discuss the San Joaquin Area
6 Subcommittee. Were any of you here to listen to that
7 discussion or address the Board on that item?

8 Okay. We also discussed the California Levee
9 Roundtable meeting. Any folks here to participate in
10 that?

11 Okay. Good.

12 Then we'll move on to Item 17, Report of the
13 Activities of the Executive Officer.

14 EXECUTIVE OFFICER PUNIA: Okay. I think we'll go
15 over the long-term memorandum agreement a little later and
16 go into a little more detail. I want to give a couple of
17 informational item status updates on various items.

18 Board member salaries. As you may recall, the
19 Resources Agency and the Department of Water Resources
20 approved and recommended to the Governor's Office on April
21 25th that the Board members' salaries should start
22 retroactively from January 1st, 2008.

23 And I think I want to commend Lorraine's effort,
24 that not hearing back from the Governor's Office, she
25 checked with the Governor's Office and realized that they

1 have some concerns and comments that they need further
2 clarifications. And then there were further discussions
3 with the legal counsel of the Board and the Governor's
4 Office. And Ginny Cahill was able to respond to their
5 questions. And Mr. John Cruz responded back that they're
6 satisfied with the comments received from the legal
7 counsel and they're -- there's no pending issue at the
8 Governor's Office as far as the salaries are concerned for
9 the Board members.

10 And further checking with the Governor's Office,
11 we realized they lost our package also. Then we
12 resubmitted them the package, and we are back on track.
13 The next step is, once they signed off on the package, it
14 will go to the Department of Personnel Administration, and
15 then the Department will be authorized to write the checks
16 to the Board members. We apologize that it's taking too
17 long. But I think finally things are coming in place
18 where you will be paid, as it should have been done much
19 earlier.

20 And we haven't received the call from the
21 Governor's Office that they have signed off on the form
22 which they're supposed to do. But the latest information
23 is there are no pending issues on the subject.

24 If there's no other questions, I'll move on to
25 the next item.

1 PRESIDENT CARTER: If we don't hear from the
2 Governor's Office in a week or so, we probably ought to
3 follow up again.

4 EXECUTIVE OFFICER PUNIA: We will.

5 Board President Ben Carter and I met briefly with
6 Senator Machado to thank him for his proposed legislation
7 to clean up Senate Bill 1360. And we also attended
8 Assembly Committee's hearing on this subject, in which
9 President Ben Carter explained the issues, the concern --
10 the Board's concern about the ex parte communication and
11 evidentiary hearings. And the committee approved the
12 proposed changes to the bill. And as previously briefed
13 by Kasey Schimke, that SB 1360's moving along with the
14 proposed changes as needed for us to implement the new
15 legislations.

16 U.S. Army Corps of Engineers conducted a Section
17 104 credit workshop. Several consultants and local levee
18 district representatives and the Board staff participated
19 in this workshop. The main purpose was to clarify the
20 Corps's policy that all the locals can get credit from the
21 U.S. Army Corps of Engineers for the advanced work.

22 Section 408 task force --

23 BOARD MEMBER RIE: Can I ask a question?

24 EXECUTIVE OFFICER PUNIA: Yes.

25 BOARD MEMBER RIE: Sorry.

1 What is the status of the 104 credits that we
2 previously requested over the past year?

3 EXECUTIVE OFFICER PUNIA: I think I need to do
4 some follow up on this. And I'll be able to report back
5 next month or -- I think we have submitted several Section
6 104 requests. I'm not up to speed which requests have
7 been approved. Unless -- Eric, you're up to speed on the
8 Natomas applications?

9 SENIOR ENGINEER BUTLER: No, I'm not up to speed
10 on it.

11 EXECUTIVE OFFICER PUNIA: I think we'll report
12 back to you on the subject.

13 Section 408 Task Force meeting. We had several
14 meetings. There are three separate documents we are
15 working on. One is the framework document in which we are
16 informing the Corps which projects we will be bringing to
17 the Corps for getting their approval under Section 408 to
18 alter the project. And then we are working on a
19 memorandum of understanding with the framework documents
20 so that all the parties can sign off on this MOU, that we
21 will move ahead with this project before we have a
22 long-term plan for the Central Valley Flood Protection
23 Plan.

24 And then the Corps also requested that we should
25 develop a spreadsheet which gives the synopsis of all

1 these projects. So Eric is taking the lead with Dan Fua
2 in developing that spreadsheet. We have the next meeting
3 coming on June 26th, which during this meeting we will
4 share these documents and we'll discuss with the Corps
5 Division and District and the Headquarters staff so that
6 we can reach some kind of understanding on this framework
7 and the proposed memorandum of understanding.

8 BOARD MEMBER RIE: A question.

9 EXECUTIVE OFFICER PUNIA: Yes.

10 BOARD MEMBER RIE: Are you planning to bring the
11 MOU before the Board for approval?

12 EXECUTIVE OFFICER PUNIA: I haven't given it
13 thought. But I think it makes sense that we need to bring
14 this document to the Board for their information and the
15 MOU definitely, the approval from the Board.

16 BOARD MEMBER RIE: And then final question.

17 Has Ms. Cahill reviewed the MOU?

18 EXECUTIVE OFFICER PUNIA: Not yet. I think we
19 are going to involve Ginny. So far DWR Legal staff is
20 working on these issues representing the state. But I
21 think we will bring Ginny in on these task force issues
22 too.

23 BOARD MEMBER RIE: Okay. I'd like to request
24 that you go ahead and forward those documents to her to
25 review.

1 EXECUTIVE OFFICER PUNIA: I think we have already
2 done that. But we will engage Ginny on the subject.

3 BOARD MEMBER RIE: Okay.

4 EXECUTIVE OFFICER PUNIA: Last month Board Member
5 Rose Marie Burroughs and I attended a briefing and a field
6 tour of the Orestimba Creek Feasibility Study. As
7 previously mentioned, the U.S. Army Corps of Engineers has
8 evaluated various alternatives. And now they're focusing
9 on the two alternatives. One is the upstream dry dam and
10 the second is the downstream modification to the channel
11 and the levee's downstream areas.

12 And based upon Mr. John Brown's request, Board
13 Member Rose Marie discussed and I also discussed
14 individually with the DWR staff and with the U.S. Army
15 Corps of Engineers staff to include the water supply
16 component in this project. But the locals' perspective is
17 that it's too late to modify the project at this time.
18 It's the flood control project only, and they are not
19 willing to entertain that request at this time.

20 And the focus is on the two alternatives, the dry
21 dam and the downstream channel modifications. And they're
22 planning to have their NAD Plan, National Economic
23 Development Plan by September of this year with the hope
24 of wrapping up the feasibility study by 2009.

25 And --

1 BOARD MEMBER BROWN: Mr. Chairman?

2 PRESIDENT CARTER: Yes, sir.

3 BOARD MEMBER BROWN: I'd like to restate my
4 position on that. I think that's an error that the --
5 it's an opportunity to check building a dam down there for
6 multi-purposes, particularly water yield. And even though
7 they have their budgets pretty well directed towards a dry
8 dam or channelization only, I think you'll find that in today's
9 climate that projects that don't have water yield
10 associated with them can receive a little more
11 consideration today than they could a few years ago.

12 Again, I'll state that last time that dam was
13 looked at was several years ago. And at that time there
14 was sufficient capacity in the Delta to develop some yield
15 out of the Delta in the round of about 70 or 80,000
16 acre-feet of water without building a peripheral canal.
17 And I doubt very seriously if the project sponsors that
18 you've been talking with have looked at it from that
19 aspect. And I don't know what, if anything, we should do
20 other than ask them at this point -- and they've already
21 said no, but I'm not sure that I'm ready to accept no as
22 an answer.

23 PRESIDENT CARTER: Can we put Mr. Brown in direct
24 communication with the local local and the Corps and DWR
25 project managers on this?

1 BOARD MEMBER BROWN: Yeah, perhaps, Jay, if you
2 could set up a meeting, I'd be happy to talk to them and
3 let them convince me that's what we should do.

4 EXECUTIVE OFFICER PUNIA: I'll be glad to do
5 that.

6 But they're expressing the concerns because this
7 is an authorized project, that they have gone to the
8 Congress and got the feasibility study approved, that it's
9 too late to include a water supply component on this. But
10 we will glad to discuss it with the Corps program manager
11 and a DWR staff.

12 PRESIDENT CARTER: Is Cardoza the Congressman
13 down there?

14 EXECUTIVE OFFICER PUNIA: That's correct.

15 PRESIDENT CARTER: Maybe we ought to be
16 discussing with him as well.

17 BOARD MEMBER BURROUGHS: You might set up an
18 appointment with Dee Dee D'Adamo. She's the
19 legislative --

20 BOARD MEMBER BROWN: That's a good idea. It may
21 be better to work at that level than to go ahead with
22 staff, which has their marching orders. Good call, Rose
23 Marie.

24 EXECUTIVE OFFICER PUNIA: I think the locals are
25 expressing concern that this can delay the project and it

1 can delay the flood control project. So I think that they
2 are not entertaining the request at the staff level. But
3 I think your approach is correct if you want to pursue it.

4 And on the Bear Creek and Calaveras River, as I
5 mentioned previously, Colonel Thomas Chapman informed us
6 that the Division is not planning to forward the request
7 to the District -- to the Headquarters until we provide
8 them additional information. So Gary and I, we will be
9 working with the locals to provide additional information
10 so that the request can be forwarded from the Division to
11 the Headquarters.

12 BOARD MEMBER BURROUGHS: Excuse me, Jay. Could
13 you talk a little bit more about that.

14 What kind of additional information do they need?

15 EXECUTIVE OFFICER PUNIA: I think maybe Gary's
16 more -- I haven't seen the Corps letter. But Gary is in
17 touch with Meegan Nagy from the Corps, who has expressed
18 these concerns.

19 Gary.

20 CHIEF ENGINEER HESTER: There has been one
21 similar extension request that's been approved by Corps
22 Headquarters. And in that particular case they had a
23 contract that laid out specific tasks that would be done
24 in order to come into compliance. So the Corps Division
25 is looking for something similar in this case. The locals

1 will do the bulk of the work in removing the encroachments
2 with their in-house resources, including their staff. So
3 it's a slightly different situation in this case, that we
4 will need to provide a few more specifics on that, how it
5 will be done.

6 They also wanted a little bit more definition in
7 terms of milestones and deadlines and when the
8 encroachments would be removed. We'll be consistent with
9 what the extension request called for by the end of 2008,
10 that we will have as much removed as we can. And there
11 are certainly some legal issues in there that pose some
12 unknowns. We are -- we are trying to get as much
13 voluntary compliance. I think we have laid the groundwork
14 with a lot of the property owners on Bear Creek to comply
15 with the request to remove these encroachments. That's
16 certainly the best outcome.

17 EXECUTIVE OFFICER PUNIA: And we have until July
18 9th to comply with this information so that we can submit
19 back to the District and then to the Division.

20 On the personnel side, flood project -- Floodway
21 Protection Section, we have a new addition, Gary Lemon. I
22 think he was here but left now. He has been selected and
23 on board. And I had a chance to work with Gary Lemon
24 before at the flood center, and he's an excellent
25 engineer. And along with the capability, he has a lot of

1 IT experience. So I think you will see the improvement in
2 your reports and in the maps and other information. So
3 it's an excellent addition to the Floodway Protection
4 Section and you will see the results

5 And Eric Koch has been promoted to a principal
6 engineer. He's the Chief of the Flood Project Office. He
7 took George Qualley's previous position. And we want to
8 welcome Eric and want to continue our excellent working
9 relationship with Eric so that we can enhance the
10 efficiency of his office and our work.

11 And at this time I think I'll ask Eric Butler to
12 give you a quick status update of the pending
13 applications.

14 SENIOR ENGINEER BUTLER: Thank you, Jay.

15 Board members, you'll recall last month I handed
16 out a rather long, 11 by 17, spreadsheet that was our
17 first crack at giving you an update. And I believe Ms.
18 Burroughs requested a more succinct update of that on a
19 regular basis. I'm still able to Email you the full
20 document at any time.

21 But just to summarize kind of where we are today
22 in terms of overall permit applications. As of today,
23 there's 134 applications that are open within our offices.
24 That includes the 13 that were approved this morning on
25 the consent calendar. We currently are proposing an

1 additional 9 to be heard on consent or hearing in the
2 month of July.

3 Now, how many have we been recently approving?
4 Between April and June we've actually been able to approve
5 35 permits. Some of those permits are yet to be issued
6 for some of the contingency reasons that -- you know, like
7 today, where we're still waiting for a particular document
8 or endorsement.

9 So 35 in the last three months have been
10 approved. During that same time period, we have
11 received -- that's April through June, we've received 24
12 new applications. So we're a little bit better than
13 treading water right now. We're doing -- we're starting
14 to catch up.

15 We did have 22 applications in March. So it kind
16 of comes -- it's not steady throughout the year.

17 But as more staff are coming on board and, as Jay
18 mentioned, Gary coming on board, personally I'm seeing a
19 greater ability for us to turn around and catch up. And
20 with me learning how to become somewhat versed at CEQA,
21 that's helped get through the CEQA findings for many of
22 the routine permits.

23 So I'm hopeful that we'll see continued ability
24 to accelerate our permit approval process as we continue
25 throughout the year.

1 EXECUTIVE OFFICER PUNIA: Thank you, Eric.

2 I think I want to invite Dan Fua to give a quick,
3 two-to-three-minutes briefing on the stakeholders meeting
4 we held on June 12th.

5 SUPERVISING ENGINEER FUA: Debbie Smith did plan
6 to come here after 3 o'clock to give you an update of the
7 stakeholders meeting. I don't see her here yet, so I'm
8 going to give you a brief update.

9 We did have the stakeholder meeting last
10 Thursday, June 12, 2008, to discuss the proposed changes
11 to our regulations. It was well attended. There were
12 four people from the public. And we had three Board
13 members: Lady Bug Doherty, John brown, and Butch
14 Hodgkins.

15 Well, even though there were only four people
16 from the public, we did receive a lot of comments, real
17 good comments, to the point that -- you know, as we
18 promised you last month that we're going to be coming back
19 to you in July to give you kind of a final draft of the
20 proposed regulations. Based on the comments that we have
21 received, we cannot do that. Comments ranged from
22 clarification of the languages that we drafted to
23 expanding the scope of the changes that we are proposing.

24 So we do plan to come back to you in July and
25 update you if we have more information regarding these

1 proposed changes to the regulations.

2 EXECUTIVE OFFICER PUNIA: And I want to echo that
3 the participation from outside was -- the numbers were few
4 but we got very constructive comments from Dante
5 Nomellini, Scott Shapiro and others. So we appreciate
6 their participation in the stakeholder meeting.

7 BOARD MEMBER RIE: Did you guys write down the
8 comments?

9 SUPERVISING ENGINEER FUA: Yes, we did. In fact,
10 we also had a transcriber.

11 Yeah, we did. And as we said, based on those
12 comments, we need more time to address those comments.

13 BOARD MEMBER RIE: Would it be possible to get a
14 copy of the comments?

15 SUPERVISING ENGINEER FUA: Certainly.

16 BOARD MEMBER RIE: Okay.

17 SECRETARY DOHERTY: Mr. Fua, did you mean you
18 couldn't share the comments right at this minute because
19 you didn't have them compiled or --

20 SUPERVISING ENGINEER FUA: I can share, but
21 there's just a lot. But I can tell you the significant
22 ones. For example, a comment from Mr. Shapiro to expand
23 the scope of the regulatory changes. Like, for example,
24 you know, can we have regulations regarding the 408
25 process? Or, you know, right now we have the encroachment

1 permit process, which really -- and staff, you know,
2 agrees to that -- that does not really apply to the
3 current encroachment process that we have, you know, the
4 alteration and modification projects that we currently
5 have.

6 Some of our conditions are kind of awkward, so we
7 do agree with Mr. Shapiro on that one.

8 We haven't really decided yet whether we will do
9 it at this time. Because as you know we had, you know,
10 three tiers. The one that we're trying to address right
11 now is Tier 1 changes to the regulations, which are the
12 simple ones and to be consistent with the new AB 5 law.
13 That's what we're trying to address now. What Mr. Shapiro
14 recommended to us is what we plan under Tier 3. But we're
15 thinking about it. We're not totally disagreeing with him
16 or, you know, telling him that we'll address it under Tier
17 3. We may address it under Tier 1.

18 BOARD MEMBER RIE: Oh, I don't think we're ready
19 to address 408 in the Tier 1 regulations because we don't
20 have a clear understanding from the Corps what their
21 regulations are.

22 SUPERVISING ENGINEER FUA: I agree. That's a
23 very good point. In fact, that's -- yeah, that maybe
24 we'll have to wait until the 408 process is sorted out or
25 at least the Corps will have the 408 regulations or

1 process, you know, ironed out before we will or can
2 address it in our regulations.

3 EXECUTIVE OFFICER PUNIA: I have one more item on
4 the long-term MOA. But I will recommend that we postpone
5 that at a later time, because we are delaying the timed
6 items. So if we can switch gears and then we will cover
7 that item at the end.

8 PRESIDENT CARTER: That's fine.

9 Any questions so far on Mr. Punia's report and
10 what he's presented so far?

11 Okay. Very good.

12 So we'll table Item 17 for later on in the
13 meeting.

14 And we'll return back to Item 14, AB 1147 - State
15 Financial Assistance for Flood Management Projects and
16 Small Flood Management Projects.

17 Mr. Parsons.

18 Good afternoon.

19 (Thereupon an overhead presentation was
20 Presented as follows.)

21 MR. PARSONS: Esteemed members of the Board.
22 Good afternoon. My name is Jeff Parsons. I work for DWR
23 Subventions. I'm here to provide an informational
24 briefing on AB 1147 regulations.

25 --o0o--

1 MR. PARSONS: What are subventions?

2 Where'd it go?

3 EXECUTIVE OFFICER PUNIA: Jeff, adjust the mic so
4 that it's close to the mouth.

5 MR. PARSONS: What are subventions?

6 Essentially subventions are a reimbursement or a
7 cost-sharing process.

8 --o0o--

9 MR. PARSONS: What is the Subventions Program?

10 It provides financial assistance to local
11 agencies cooperating in construction of federally
12 authorized flood control projects. It reimburses a
13 portion of the non-federal capital costs of the project
14 such as lands, easements, rights of way, relocation, and
15 cash contributions.

16 --o0o--

17 MR. PARSONS: What is the purpose of a flood
18 management project?

19 The main objective of flood management projects
20 is to reduce the loss of life and property to damages
21 associated with flood events. However, by their nature,
22 other important opportunities may also be included in
23 their design.

24 --o0o--

25 MR. PARSONS: So what is the purpose of the AB

1 1147 legislation?

2 The legislation promotes the development of
3 multipurpose flood management projects authorized after
4 January 1st, 2002. The proposed AB 1147 regulations
5 provide the process and method to evaluate these flood
6 management projects.

7 --o0o--

8 MR. PARSONS: How does AB 1147 affect the Board?

9 The Water Code requires that DWR or the Board
10 encourage, evaluate, and report upon the AB 1147
11 multipurpose objectives achieved for each project.

12 In the proposed regulations, project
13 responsibility was given to DWR and the Board as follows:

14 For the Board, that would be lands along the
15 Sacramento and San Joaquin River and their tributaries and
16 distributaries for which the Board has given assurances to
17 the federal government or will provide the state cost
18 sharing.

19 DWR, everything else.

20 --o0o--

21 MR. PARSONS: How does a project become eligible?

22 What are the eligible requirements for AB 1147 for a
23 project?

24 First, they have to qualify for federal
25 assistance -- federal financial assistance. They have to

1 be federally authorized, have a flood protection component
2 benefit the cost ratio greater than 1. They have to have
3 a floodplain management plan. They have to avoid,
4 minimize, or mitigate impacts to environmental and
5 recreational layers. And they have to evaluate
6 multipurpose objectives.

7 --o0o--

8 BOARD MEMBER RIE: Excuse me. Pardon me for
9 interrupting.

10 Is this the same subventions that the Board has
11 policies and procedures for approving the subventions
12 budget?

13 EXECUTIVE OFFICER PUNIA: No, that's the Delta
14 Subventions Program. That's a Dave Mraz program. This is
15 a different -- this is assistance to locals, a totally
16 different program.

17 BOARD MEMBER RIE: Okay. Thank you.

18 MR. PARSONS: AB 1147 cost sharing for new
19 projects. How does it work?

20 What is cost sharing? Cost sharing is a
21 partnership between the federal government and a
22 non-federal entity or between the state and local
23 agencies.

24 AB 1147 changed the cost share.

25 --o0o--

1 MR. PARSONS: AB 1147 state cost share requires
2 that the project qualifies for a base of 50 percent state
3 cost share. And the regulations provide the process and
4 method for determining up to a 20 percent additional cost
5 share. To qualify for additional cost share the project
6 must contribute to any of the five objectives.

7 --o0o--

8 MR. PARSONS: The objectives for this variable
9 state cost share are:

10 Required to enhance benefits for habitat, open
11 space, recreation, impoverished areas, and state
12 transportation and water supply facilities.

13 --o0o--

14 MR. PARSONS: What would it take to -- what is
15 the evaluation process for the AB 1147 regulations?

16 For eligible projects the state provides guidance
17 to the sponsor to encourage the inclusion of multipurpose
18 opportunities. The state provides the sponsor and the
19 Legislature for the determination of the project's
20 contributions towards each of the multipurpose objectives.
21 The Legislature authorizes the state's recommended cost
22 share.

23 --o0o--

24 MR. PARSONS: So what would it take to adopt the
25 regulations? What would it take to implement the

1 regulations?

2 First, the regulations have to be drafted;
3 approved by OAL, the Office of Administrative Law;
4 distributed to the public for a minimum of a 45-day
5 comment period. And this preliminary review process would
6 need to be repeated if major regulation changes are
7 required. Otherwise the process will continue until the
8 regulations are approved and adopted by OAL.

9 --o0o--

10 MR. PARSONS: So what is the status? Where are
11 we at currently in drafting the AB 1147 regulations?

12 DWR was tasked with developing the regulations.
13 They've been drafted. DWR management, legal staff, and
14 the Resources Agency have reviewed the regulations. OAL
15 has released regulations. We published a NOPA, a Notice
16 of Proposed Action, in the California Regulatory Notice
17 Register on June 13th. And that began the 45-day public
18 comment period. The draft regulations have been posted to
19 the DWR Subventions website. Public hearings have been
20 arranged for this June 24th and July 29th.

21 If no major changes are required, the regulations
22 should become effective in November.

23 --o0o--

24 MR. PARSONS: That ends my presentation. If
25 you'd like more information on the regulations, you can

1 refer to your website or just ask me.

2 Any questions?

3 SECRETARY DOHERTY: Are there subvention funds
4 available?

5 MR. PARSONS: We've received funding through Prop
6 1E and 84.

7 BOARD MEMBER RIE: Does the Board need to approve
8 these regulations?

9 EXECUTIVE OFFICER PUNIA: No.

10 BOARD MEMBER RIE: Ms. Cahill.

11 LEGAL COUNSEL CAHILL: I don't know. I haven't
12 focused on this question. I'll have to find out.

13 BOARD MEMBER RIE: And there's several changes to
14 Title 23 that reference the Central Valley Flood Board,
15 and that there's certain tasks that we're required to do.
16 So maybe you can get back to us on that?

17 EXECUTIVE OFFICER PUNIA: Yeah. My answer is
18 based upon our legal opinion from our previous Chief
19 Counsel, Scott Morgan. But we'll see what Ginny has to
20 say.

21 LEGAL COUNSEL CAHILL: I would think, however, if
22 you have comments, I think the Board members ought to look
23 at these regulations -- which we're not in your packet,
24 were they?

25 PRESIDENT CARTER: No.

1 LEGAL COUNSEL CAHILL: I think probably they
2 should be sent to the Board members. And if you have
3 comments, you should get them to Mr. Punia or to me, and
4 we can respond during this public period.

5 PRESIDENT CARTER: Mr. Parsons, going back to
6 your slide about how AB 1147 affects the Board. In that
7 second bullet: "In the proposed regulations, project
8 responsibility was given to DWR and the Board as follows:"
9 Basically the Board has responsibility -- project
10 responsibility Sacramento/San Joaquin Drainage District
11 and the DWR everywhere else.

12 But what responsibility do we have in that area?
13 Do we have responsibility for allocating the funds? Do we
14 have responsibility for permitting the projects? As far
15 as 1147, what responsibility does it give -- I mean what
16 are we supposed to do?

17 MR. PARSONS: You'd have to follow the steps for
18 that in the regulations to see if the project that was
19 initially qualified, it would be federally authorized.
20 And there's a list of requirements there.

21 And then you'd have to use the steps. And that
22 was provided within the regulations to determine what kind
23 of cost-share percentages the sponsor should receive.

24 PRESIDENT CARTER: So essentially are you saying
25 that the Board ought to have a subventions program where

1 people apply for subventions funds within our geographic
2 area of responsibility; and then the Board, based on these
3 criteria, select projects for subventions and at what
4 levels of subvention support a cost share?

5 MR. PARSONS: I don't know -- I've heard that.
6 But Central Valley Flood Protection Board does have some
7 interest in some of the projects that will be coming up in
8 the future. It certainly wouldn't be as much as
9 subventions though.

10 Jay, would you know?

11 PRESIDENT CARTER: The legislation as I read it
12 in terms of -- or the bonds for 1E and 84 were written
13 such that -- and the flood legislation said that DWR has
14 the responsibility for disbursing the funds from those
15 bonds and proposition, not the Board. It specifically
16 says that. So I'm just struggling with trying to figure
17 out what our responsibility is.

18 I'm hearing two different things. One, from our
19 reading of the bonds, the Board does not have any
20 authority to disburse funds from the bonds. We review the
21 projects that are being funded by the bonds, but we don't
22 disburse money.

23 And so I'm wondering what our role really is in
24 this effort.

25 MS. WEGENER: I'm Terri Wegener. And maybe I can

1 help out just a little bit.

2 I can help out with my glasses here.

3 We wanted you to be aware of the process, because
4 land easements, right of ways are part of reimbursement
5 process. The way I understand it, there is the state.
6 And then within the Central Valley, the Board has the
7 responsibility for federally authorized projects by the
8 Corps. So we want you to be aware then how that
9 reimbursement process will occur for lands easements,
10 rights of way, and that any of the categories now will
11 also include those multipurpose objectives.

12 Does that help?

13 SECRETARY DOHERTY: Terri, what is your last name
14 and which department are you with.

15 MS. WEGENER: My name is Terri Weggener, and I
16 also am with the Department of Water Resources.

17 SECRETARY DOHERTY: And you're with what
18 department?

19 MS. WEGENER: Department of Water Resources.

20 EXECUTIVE OFFICER PUNIA: Terri's a new, new
21 addition to the Division of Flood Management. If you want
22 to welcome Terri back, she used to work in Flood Center,
23 gone to the Division of Planning. And she's back with the
24 Division of Flood Management about a month back. And she
25 works in Eric Koch's office.

1 BOARD MEMBER RIE: I'm just curious. The
2 legislation was passed in 2000. It's now eight years
3 later. Why are the regulations now coming up eight years
4 later?

5 MS. WEGENER: The regulations were passed in 2000
6 with the intent that they would apply to projects approved
7 after 2002. However, that was a very slow period, so to
8 speak, for Department of Water Resources. And there were
9 staffing issues and funding issues and prioritization
10 issues.

11 So now that Props 1E and 84 have made more funds
12 available and we have more staff available, we're able to
13 promulgate these regulations.

14 BOARD MEMBER RIE: So there was no subventions
15 allocated between 2002 and now?

16 MS. WEGENER: There were no projects that these
17 regulations would apply to between 2002 and now.

18 BOARD MEMBER RIE: Okay. Going through the
19 regulations, it appears the Board is going to have to
20 approve in some areas where we have jurisdiction the
21 dollar figure of the subventions. So if we need to
22 approve the cost share or how much money is allocated for
23 specific projects, I'm just wondering how that relates to
24 the approval of the regulations.

25 MS. WEGENER: Because I'm brand new, I don't know

1 the process in terms of the Board. What we could do is
2 determine that process and report back to you in your July
3 meeting. That still would be within the public comment
4 period.

5 BOARD MEMBER RIE: Okay.

6 MS. WEGENER: And could you confirm for me the
7 date of your July meeting?

8 EXECUTIVE OFFICER PUNIA: Yes, it's --

9 SECRETARY DOHERTY: -- July 18th.

10 EXECUTIVE OFFICER PUNIA: Yeah.

11 PRESIDENT CARTER: Friday, July 18th.

12 MS. WEGENER: Not Friday, the 13th.

13 PRESIDENT CARTER: Okay. That probably would be
14 helpful, if we can get some clarification as to, you know,
15 what our role really is in this effort. Kind of define
16 our role and DWR's role in this program and how the
17 process is going to work, who's submitting the projects,
18 who evaluates them based on the criteria, and who approves
19 where, when, that would be helpful.

20 MS. WEGENER: We'd be happy to do that.

21 PRESIDENT CARTER: Thank you.

22 Any other questions?

23 Thank you very much.

24 Let's see. Let's take a ten-minute recess. We
25 will reconvene at 3:10 to address Item 15.

1 (Thereupon a recess was taken.)

2 PRESIDENT CARTER: Ladies and gentlemen, if I
3 could ask you to take your seats.

4 Ms. Pendlebury wanted to announce to the public
5 that she is leaving extra copies of the background
6 material for the agenda items on the back table at the
7 entrance to the auditorium, if people want to pick those
8 up at their convenience.

9 At this time we're on to Item 15, Briefing
10 Regarding Reclamation District 17's Proposed Flood Control
11 Project Along the San Joaquin River to Address a Seepage
12 Problem in San Joaquin County.

13 I see -- Mr. Nomellini, you're taking over for
14 Mr. Neudeck?

15 MR. NOMELLINI: This is a team effort, Mr.
16 Chairman.

17 (Thereupon an overhead presentation was
18 Presented as follows.)

19 MR. NOMELLINI: I'm Dante John Nomellini. I'm
20 the attorney for Reclamation District 17. With me is
21 Chris Neudeck, our engineer. And I might point out that
22 the subcommittee of the Board toured San Joaquin County,
23 including portions of RD 17, awhile back, and we're very
24 appreciative of the interest of the Board to get
25 acquainted with the problems that we have down there. And

1 I appreciate this opportunity as well.

2 PRESIDENT CARTER: Thank you for your hospitality
3 down there.

4 MR. NOMELLINI: For those who don't know, we had
5 a little struggle trying to get a PowerPoint that did both
6 horizontal -- oh, portrait and landscape slides on the
7 same presentation, but I think we succeeded.

8 Reclamation District 17 is outlined on this slide
9 in red. And at the northern end we have a major portion
10 of the City of Stockton. The area is called Westin Ranch.
11 In the lower portion, we have a major portion of the city
12 of Lathrop. And then to the right or to the east, kind of
13 the southeast portion of our district, we have portions of
14 the city of Manteca.

15 This area has undergone very rapid development.
16 And in the past approximately 15 years it's really
17 transitioned substantially from agriculture to a highly
18 developed area.

19 --o0o--

20 MR. NOMELLINI: The floodplain of this -- the
21 district boundary pretty much coincides with the 100-year
22 floodplain established by FEMA back in the 1980s. And
23 this is an evacuation map prepared with the efforts of San
24 Joaquin County Office of Emergency Services and the
25 district. It's not intended to give you all the detail,

1 but just to let you know that we've projected flood
2 elevations of ranging from five to ten feet, probably the
3 ten max. There would be a little higher if you were right
4 next to a levee break.

5 But pretty much the entire area within the
6 reclamation district is threatened by a 100-year event.

7 --o0o--

8 MR. NOMELLINI: I'm planning to come back to this
9 slide in a minute.

10 --o0o--

11 MR. NOMELLINI: The history of Reclamation
12 District 17, it's one of the oldest districts in the
13 state. Originally the levees were constructed, we
14 believe, or upgraded in 1883 or thereabouts. The
15 importance of this slide, it shows you a progression after
16 that.

17 The project levees were constructed in the late
18 fifties and completed in the sixties -- early sixties.

19 Then this is a -- we picked a cross-section in
20 one of the areas that is deemed to have some seepage
21 related problems, that became quite controversial
22 recently.

23 But the project levee, as you can see, was
24 substantially improved in order to get the 1990 FEMA
25 accreditation. And I wanted you to see the magnitude of

1 the difference between the project levees. And I
2 researched the project and the project goals. The project
3 levees were to protect against the highest flood of
4 record. And of course we assumed that they were going to
5 be designed and built by the Corps. And of course the
6 state was the sponsor -- non-federal sponsor. And they
7 would be stable. Seepage of course, boils and those
8 things, they're nothing new. They were known at that time
9 as well recognized and presumably designed against.

10 In the late 1980s developers started moving
11 forward with the Western Ranch Project. That's that part
12 of the district that's in Stockton. The county jail and
13 the county hospital were in place at that time, not
14 developed to the extent they are today, but they were
15 there. And there was an interest on the part of the City
16 of Stockton, the developer, and the county to transition
17 this district into a FEMA-compliant district so
18 development could proceed.

19 My board, composed of farmers, didn't have a
20 great deal of enthusiasm for this. However, not being the
21 land-use agency, the land-use agencies could move forward
22 with development. We were asked to grant a permit.
23 Really it's your permit. You granted it. Our board
24 endorsed it.

25 We hired -- we, the reclamation district, the

1 tail wagging this dog -- hired you to inspect. In fact,
2 the developer paid the declamation district I think some
3 \$200,000, which we in turn paid you to perform the
4 inspection on the project.

5 The project went forward, substantially upgraded
6 the levees, seepage was analyzed, underseepage as well.
7 It was discussed in the review and accreditation by FEMA,
8 and the accreditation was granted. The way in which
9 seepage and boils were to be handled was the traditional
10 way pretty much incorporated in the operation and
11 maintenance manual which guides your relationship with the
12 Corps and our relationship with you as the maintaining
13 agency.

14 When flood waters occur -- and this land is above
15 the water except during flood events, you know. And this
16 is on the riverine system. When floods occur we commence
17 patrols. When the warning stage at Mossdale is reached,
18 we start 24-hour patrols. We try and check every spot on
19 the levee at least on an hourly basis.

20 From that point on, seepage, we monitor. When it
21 become a boil, we sandbag it. When boils become piping,
22 we move forward with more aggressive action in terms of
23 seepage berms or gravel buttressing.

24 So, anyway, seepage and boils were the subject of
25 concern in 1990. They were addressed -- deemed addressed

1 properly. FEMA granted accreditation. Your Board
2 approved the completion of the project. You approved the
3 inspection. Applications were made to the Corps as well.
4 The Corps reviewed all the environmental documents and all
5 the project documents as well.

6 In 1997, we had a flood event on the San Joaquin.
7 The levees did not fail, but we flood fought seepage and
8 boils. There were various areas on the levee system that
9 had seepage and had boils. We addressed them jointly with
10 the Department of Water Resources and the Corps. And the
11 flood fight was a success.

12 After the flood event, money was made available
13 by Congress to go forward with what was termed then a
14 Phase 3 Corps of Engineers Repair and Rehabilitation
15 Project. We jointly embraced that project, as did the
16 state, your Board. We had a special election assessment
17 ballot proceeding, which was approved by the locals to put
18 up the local share.

19 We're still waiting for our accounting, which Rod
20 Mayer has promised us a number of times. The project was
21 completed in the year 2000.

22 It was designed, built by the Corps, reviewed by
23 the state. We reviewed it as well. And we addressed all
24 the seepage and boils that became evident in the 1997
25 flood.

1 This cross-section shows you the 1990 FEMA
2 accreditation improvement at this levee section, which
3 added crown height, added width to the structural section
4 of the levee.

5 The Corps Rehabilitation Project that followed
6 the 1997 flood event added what we call a seepage berm,
7 which is the -- it looks blue to me -- the blue area that
8 extends to the right and is the toe berm.

9 As a part of the FEMA map modernization effort,
10 which was to digitize the maps, which is still ongoing,
11 FEMA came to the District and said, "Show us all the
12 engineering and all the support documentation for the
13 previous accreditation or the reasons why the levee should
14 be continued to be accredited." We did. We had all the
15 records, all the engineering documents, the inspection
16 reports and all of that.

17 And they were prepared to grant the district
18 continued accreditation, which meant that we would keep
19 our X zone without condition.

20 The Department of Water Resources in that process
21 wrote a letter to the City of Lathrop, copy to FEMA,
22 saying, "We're very concerned about seepage and
23 underseepage in the reclamation district levee system."
24 As a result of that, FEMA said to us -- and there's
25 documentation if you're interested and that we can provide

1 you -- "We will not grant the accreditation. We will
2 grant provisional accreditation. The provisional
3 accreditation keeps the X zone status until August of
4 2009." They urged us to continue to work with the state
5 and the Corps to address the seepage issues. Our
6 engineers have worked -- been working with the Corps and
7 the Department of Water Resources on outlining a fix for
8 the seepage concerns expressed in the letter by the
9 Department of Water Resources.

10 The fix for this particular cross-section is the
11 red extension of the seepage berm to the seepage berm that
12 was built following the 1997 flood.

13 Now, this is fairly typical of what we have to do
14 in order to address the -- let me see if I can get back
15 here -- the concerns expressed in the Department of Water
16 Resources letter.

17 Now, the Department of Water Resources letter
18 indicates that they believe because of the seepage that
19 the levees are unstable. Now, we had a number of
20 discussions back and forth with the Department of Water
21 Resources on the subject. And Les Harder was the lead at
22 that time for the Department of Water Resources. And his
23 position was stated that these levees are project levees
24 and the state is liable for any failure. And that was
25 their concern. That's why they went through this unusual

1 process of sending over this letter, which created kind of
2 an awkward situation for the district as well as for FEMA
3 as to what should be done in the process.

4 This project as outlined on this slide is
5 estimated to cost about \$100 million. The local district
6 is committed to moving forward as fast as it can to the
7 best of its ability to repair these levees, to correct the
8 alleged deficiencies. We don't know how we can stand idle
9 or how you can stand idle in the face of a determination
10 by the Department of Water Resources that there's
11 instability here.

12 Now, look, we can debate all we want about
13 whether it's necessary to meet FEMA criteria or what have
14 you. But we feel it essential that we make every effort
15 to move forward as best we can.

16 We have an assessment ballot proceedings set for
17 July 23rd where we're asking the landowners to approve a
18 very, very substantial increase in assessments. If
19 approved, we will have the ability to fund about \$30
20 million of an improvement project.

21 We've participated in your 408 task force with
22 the Corps. We're aware of the Corps's view about
23 alterations to project levees and this ambiguity as to,
24 you know, what will constitute an alteration. The 408
25 process means two years -- a minimum of two years. We

1 haven't seen their new guidance. We're hopping that it
2 will give us some help as to where we draw the line.

3 None of this work will change the hydraulics in
4 the river. It's all landside work. Very little of the
5 work comes near the original project levee easements, you
6 know, which extend ten feet from the toe. We did acquire
7 additional easements when we did the '97 flood repair work
8 afterwards that moved out, picked up the berm areas, and
9 extended out.

10 We have consultants in the field -- we hired EDAW
11 to do the environmental work for us -- to review the work
12 areas to determine what work can be performed with
13 assurance that there would be no significant impact.

14 And our present thought process is to seek and to
15 discuss with you and others the prospect of us going to
16 our board with a prospect of a categorical exemption for
17 work that can be done this year, which would clearly not
18 have any significant impact.

19 Now, we know, you know, the various positions,
20 that we probably have an alternative of seeking an
21 encroachment permit. We've come before the Board before.
22 Our engineer put in a -- or had a developer put in a
23 sheetpile cutoff wall in an area that we thought was a
24 nonproject portion of the levee. It turned out it was
25 project. We apologize for that. There was no intention

1 to circumvent the process. But the way we resolved that
2 was -- the Corps couldn't embrace sheetpile walls because
3 Katrina and their failure of those stem walls, which had
4 sheetpiles underneath, I guess it becomes a Washington DC
5 monumental task to deal with any subject that says
6 sheetpile. So the solution we worked out with your Board,
7 staff, and the Corps at that time was for the district to
8 apply for an encroachment permit. And then the Board
9 granted the encroachment permit. And I don't know what
10 Corps did. But they reviewed it and didn't do anything.

11 If we could do that for some of this work, we
12 can -- assuming our assessment ballot proceeding is
13 successful in July, we would like to move forward.

14 Some of these areas are more critical than
15 others. The areas that are most critical are in the areas
16 that now are undergoing development in the City of
17 Lathrop. So the City of Lathrop has environmental
18 documentation that has already contemplated work in many
19 of these areas to develop parks and things like that. So
20 we're going to be overlapping those particular areas.

21 But our thought is, which we think is in the
22 interests of everybody, to try and segregate a work
23 element here or a portion of this work that can go forward
24 immediately.

25 As the lawyer for Reclamation District 17,

1 failure to try and do everything we can, I can visualize a
2 wet winter, a levee failure, and then the plaintiffs'
3 lawyers saying, "You knew you had defects. They're
4 documented in the letter from Les Harder to you. They're
5 known to be there. They're in areas that don't affect
6 anybody else. They're in areas that there's no
7 significant impact on the environment. You know, why
8 didn't you do them?"

9 So we're going to request your assistance to
10 permit. Once we get our environmental analysis completed,
11 we will be in a position to make that request to you. We
12 want to do it jointly. We want to share what the -- this
13 is a dilemma for us. It's a dilemma for you because
14 they're project levees. We're all facing a problem that
15 the Corps has with this, you know, evolving process and
16 guidance.

17 So I don't know what the answer is. I can just
18 tell you and repeat where we're headed. We're going to
19 try and get to the point where we can present to you and
20 present to our board those areas of work that we think
21 would fall in the category of categorical exemptions. We
22 view this as repairing deficiencies in the project levees.
23 If you go back and look here.

24 If there's an underseepage problem here, it's in
25 this project levee to begin with. You know, they didn't

1 correct it when they built it. And really what's
2 happening is there are new ideas of what standards ought
3 to be. But that, you know, it's clearly recognized that
4 this underseepage, which is nationwide, is a deficiency
5 that exists in all our project levees.

6 So we hope you guys will join with -- we're
7 warning you now -- we're alerting you, I should say, of
8 what our dilemma is and we're going to make those formal
9 requests to you, so it will become your decision making as
10 well.

11 But this is a joint problem for us. We're an
12 operating and maintaining entity. You know, we think we
13 get projects that are stable to operate and maintain. We
14 don't have a great amount of resources, but we're doing
15 the best we can. And we hope our landowners will give us
16 the resources. And we're going to make a yeoman's try to
17 address this problem responsibly, recognizing
18 environmental concerns and all that.

19 So we're going to do our best to present it in
20 the best light we can. And if we can do work without
21 interfering with any endangered species, any 404 areas,
22 wet areas, we want to get that done as soon as possible.

23 I'd be happy to answer questions.

24 BOARD MEMBER RIE: I have some questions, Mr.
25 President.

1 PRESIDENT CARTER: Go ahead.

2 BOARD MEMBER RIE: Are you the maintaining agency
3 for these particular levees with deficiencies?

4 MR. NOMELLINI: Yes.

5 BOARD MEMBER RIE: And can't you just make the
6 repairs as the maintaining agency?

7 MR. NOMELLINI: Well, we'd like to make sure we
8 do that with accord from your people. We are going
9 outside of the present easements. You know, we're going
10 to be acquiring easements. We're going to be widening
11 this out.

12 The Corps has indicated an uncertainty in their
13 mind as to whether seepage berms and even cutoff walls
14 would constitute alterations, such that 404 should apply.
15 We don't interface with the Corps directly unless we get
16 into a 404 permit situation. But you people, being the
17 nonproject sponsor, are the interface with the Corps.
18 So --

19 BOARD MEMBER RIE: But it seems like your work is
20 expanding way beyond the Board's jurisdiction. So is that
21 private property? I mean why don't you just --

22 MR. NOMELLINI: No, it's private property. We're
23 going to have to acquire the property rights. We're not
24 just going to go out and run over somebody's property.
25 We're going --

1 BOARD MEMBER RIE: I'm sorry. That's not what I
2 meant.

3 But can't you just --

4 MR. NOMELLINI: Why are we talking to you?

5 BOARD MEMBER RIE: Yeah. Why can't you just go
6 do the work if it's not the Board's property?

7 MR. NOMELLINI: We may choose to do that. But we
8 would like to do -- you know, this is not just us. We are
9 under contract to operate and maintain the project levee
10 with you. There's some ambiguities that have come along
11 here, you know. Are these improvements that were put in
12 in 1990 to meet the FEMA accreditation which you guys
13 approved and inspected? Those are projects too. We
14 maintain them. We treat it the same.

15 There are some of these nuances that exist that
16 we would like to make sure we're in lock step -- we'd like
17 to be in lock step with the state and the federal
18 government and not just go off with some renegade
19 maintaining agency. But we are quite capable, if our
20 landowners approve our assessment, of doing work,
21 acquiring easements, and moving forward.

22 BOARD MEMBER RIE: Have you guys applied for an
23 encroachment permit?

24 MR. NOMELLINI: We submitted a draft of permit
25 primarily to start the process. The Corps -- we had some

1 meetings. The Corps representative said, "Okay, if the
2 Board gives us the paperwork, we'll assign staff to start
3 reviewing." Our engineers have been meeting on a
4 technical basis with the engineers for the Department of
5 Water Resources and the Corps already to go over the fix.
6 So we expect to refine that. What we submitted was
7 preliminary to get the process started. And that was
8 submitted what, a couple months ago?

9 MR. NEUDECK: Three months ago.

10 BOARD MEMBER RIE: Have you spoken to the Board
11 staff?

12 MR. NOMEILLINI: We've been discussing it. I
13 think that's why they put us on the agenda so you could
14 hear some of this.

15 EXECUTIVE OFFICER PUNIA: Yes, we have a draft
16 application. It's not complete. And we are in touch with
17 Chris Neudeck on this subject. And the purpose of
18 today's -- this briefing is so that we can appraise to the
19 Board where we are going with this. And there will be a
20 push to issue the permit aggressively on this project and
21 we are gearing up for that.

22 BOARD MEMBER RIE: Yeah, considering what's going
23 on in Iowa and Missouri and Mississippi and on down the
24 country, it seems like if we have a reclamation district
25 that has the means and the will to make improvements,

1 seems like we ought to help them out.

2 EXECUTIVE OFFICER PUNIA: We will. But we have
3 to keep in mind that most of this project will fall under
4 Section 104, and we need to keep the Corps engaged so that
5 when the time comes we can get the 408 approval on the
6 project also.

7 MR. NOMELLINI: Now, the other thing we're doing
8 as a reclamation district is we've joined with other
9 agencies in the County of San Joaquin to undertake a
10 feasibility study with the Corps. The project agreement,
11 I think it was on the agenda today, one of the things you
12 dropped off, we are a subcontractor with the City of
13 Stockton and SJAFCA, the San Joaquin Flood Control Agency,
14 for that feasibility study. The feasibility study is
15 intended to address the upgrading of this levee system to
16 coincide with what we expect will come down from the new
17 Central Valley Plan for Flood Protection, which will have
18 a 200-year objective for urban areas.

19 So we are embarking on clearly the 408, the 104
20 process in that regard. Now, if we go out and spend \$30
21 million on this and DWR -- and we're all working to try
22 and make sure the work that we do here is an incremental
23 step that is not wasted effort in reaching the ultimate.
24 But that's why a lot of this technical exchange is going
25 on, to make sure that this is a valuable step. We would

1 like to preserve the opportunity for the state to have
2 credit for the work that we do here. And if that
3 agreement gets signed -- I mean, Jay, you went to the same
4 workshop I did with the Corps. But if that agreement can
5 get signed before we award a contract here, which is quite
6 possible, then this work could be eligible for the 104
7 credit, the way I understand it.

8 So this is kind of a heads-up to let you know.
9 But we share that view with Mississippi and everything
10 else going on. We can't justify just sitting. We've got
11 to move.

12 BOARD MEMBER BROWN: Just a note. I came in a
13 little late on your presentation. You may have covered
14 it. But everything in red is what you're going to have to
15 put in to stabilize the embankment, is that the way --

16 MR. NOMELLINI: Well, the new standard -- what's
17 going on with seepage is there's been kind of a -- and
18 nothing's been formalized, you know, really in regulation
19 or anything like this. But the Corps of Engineers issued
20 a technical letter that modifies its design memorandum.
21 The design memorandum -- I see our Chairman nodding, he's
22 familiar with it -- it still says they defer to the
23 project engineer for judgment on the stability. But the
24 technical letter said that you should achieve a calculated
25 exit gradient for seepage less than .5. Now, I don't even

1 know how to calculate it. But it kind of -- it's got to
2 come out less than .5.

3 In order for this soil condition at this
4 cross-section to undergo that calculation and result in
5 exit gradients less than .5, you have to add that berm.

6 Now, having been through a lot of flood fights as
7 a lawyer, having an exit gradient greater than .5 does not
8 mean the levee's unstable. I've been on top of levees,
9 and so have you -- or many of you, that have exit
10 gradients very high that never fail. You get seepage, you
11 see seepage, sometimes it turns into a boil.

12 So that stability question -- and I'm just
13 addressing your use of the word "stable". But this is the
14 project that would have to be done to satisfy the
15 criticism that was expressed in the letter from the
16 Department of Water Resources.

17 BOARD MEMBER BROWN: Yeah, it sounds like they
18 were concerned with the piping of material stability. And
19 that's why I asked the question, is that with that amount
20 of dirt and weight that you add on, that would be
21 protection against the embankment heaving.

22 MR. NOMELLINI: No, this is a great addition. We
23 wholeheartedly embrace it. I mean we're moving forward.
24 It's much better. And when we go to 200 year, we'll
25 probably fill in, you know, that -- flatten that back

1 slope and fill in the wedge on the backside --

2 BOARD MEMBER BROWN: It makes --

3 MR. NOMELLINI: -- maybe even raise it.

4 BOARD MEMBER BROWN: Another question for you.

5 With the improvements in 1990 and then 1997 and
6 2008, how's your warm feeling that this is going to be the
7 answers to your concern?

8 MR. NOMELLINI: Well, we can address the
9 technical criticism. Now, you know, I can't tell you
10 that -- you know, as you know, we can't say levees will
11 never fail. I don't know that we can say that about very
12 much.

13 BOARD MEMBER BROWN: No. But --

14 MR. NOMELLINI: So it's a matter of the risk of
15 flooding. But to address the criticism from the
16 Department of Water Resources, which is recognized as a --
17 you know, a credible --

18 BOARD MEMBER BROWN: And they're happy with this.

19 MR. NOMELLINI: Pardon me?

20 BOARD MEMBER BROWN: And they're happy with the
21 fix that's been proposed.

22 MR. NOMELLINI: And I think we can -- our
23 engineers will have a fix that they're in accord with.
24 We're getting close to it. They have a rule of thumb
25 that, regardless of the exit seepage gradient -- let's say

1 we get it down below .5 -- still want to see a seepage
2 berm that's at least four times the levee height, which is
3 a rule of thumb. Which is okay, four times the levee
4 height. In other words the width of the berm has to be at
5 least four times the height of the levee.

6 So it's going to exceed the seepage gradient in
7 some cases. That's fine. I mean it's going to be better.
8 So we're going to have it better in some places than even
9 exit gradient was. But we're not going to argue about
10 that. Whatever that -- whatever it is that fits we're
11 going to try and do. And if we lack resources, we're
12 going to attack the most critical areas first. And we'll
13 go as far as we can as fast as we can.

14 Anyway, I appreciate this opportunity. I'd be
15 happy to answer more questions if there are any. And
16 we've got some engineering people here that can provide
17 the technical explanation as well.

18 BOARD MEMBER BURROUGHS: On your identification
19 with the roman numerals, is this -- I can't read the small
20 print. But what --

21 MR. NOMELLINI: Well, we'll give you something
22 better.

23 BOARD MEMBER BURROUGHS: I just wanted to know,
24 are these numbered in terms of just the area or the kind
25 of --

1 MR. NOMESELLINI: No, the kind of fix.

2 BOARD MEMBER BURROUGHS: Okay.

3 MR. NOMESELLINI: You got to get the hand to show
4 up.

5 Those are all areas that have a typical -- that
6 can be addressed with a typical fix.

7 I'm going to try and get it.

8 See, each one of these is color coded to the
9 right. And the magnitude -- the scale is hard to read.
10 But on the right-hand column are the different levels of
11 fix. In other words you have a seepage berm that's 40
12 feet, seepage berms at 300 feet, or whatever. And then
13 you follow those over and they pick out the levee sections
14 to which those fixes apply. And you can follow the color
15 codes. And generally speaking -- am I right?

16 Generally speaking, this reclamation district has
17 sandier conditions as you go south. In other words when
18 you move down on the drawing, that's south -- it's
19 upriver, up the San Joaquin -- the soil conditions have
20 greater amounts of sands that are more conducive to this
21 underseepage problem.

22 So the wider berms are going to be down in the
23 southern area.

24 BOARD MEMBER BURROUGHS: I also just wanted to
25 give a comment from our visit that we had. I wanted to

1 commend your district for the wonderful proactive design
2 you have for flood fighting. And if you wouldn't mind
3 sharing that with the Board.

4 MR. NOMELLINI: Yeah. What our district did from
5 the start when confronted with a development -- and,
6 again, we're not a land-use agency -- we recommended that
7 there be a setback, a development from the levee. At that
8 time we were way too modest, but it was like 35 feet with
9 a single loaded street, houses on the other side. The
10 City of Stockton -- as I understand it, the public works
11 supported us. But somebody in planning and the city
12 manager's office, they thought houses should be able to go
13 up near the water and over the levee, so they didn't do
14 it. They didn't setback in Westin Ranch.

15 City of Lathrop, to their credit, embraced our
16 recommendation, implemented it, and in fact extended the
17 setback and required the developers to put toe drains in.
18 So we didn't go far enough for the city -- in our
19 recommendation, but we did try -- City of Lathrop tried to
20 do better. And they didn't go far enough based on these
21 new standards, so we're going to have to improve that.
22 But it really is important, in our view, has been for
23 years, to have development setback from these levees for a
24 number of reasons.

25 First of all, when you're flood fighting, if you

1 have to disturb somebody's house or backyard, it's a very
2 traumatic thing for them. Very difficult for us, because
3 we have to destroy improvements, takes time. But dealing
4 with the personal problems and the strong emotions that
5 are involved is really a distraction in a flood fight.

6 Secondarily, we don't know what the future's
7 going to hold whether-wise, climate-wise or whatever and
8 we should anticipate that our view towards flood
9 protection is going to change and we're going to need room
10 to work. And if we have to go in -- and some of this
11 we're going to have go in and spend a lot of money on
12 rights of way in developed areas.

13 So if we can avoid that -- and from a community
14 standpoint, and the developer's, if they can get credit
15 for the open space near the levee, rather than in a park
16 out in the middle of development, it doesn't cause an
17 economic -- a new economic burden to them. So if they can
18 get credit for that.

19 Now, there are a couple problems. Vegetation.
20 These seepage berms are intended to avoid a piping. We're
21 told - and you guys know better than we do about this
22 conflict on vegetation - certain trees and plants if the
23 roots go down, the roots could create the path that would
24 upset the integrity of these seepage berms. So we haven't
25 embraced it in detail, but there's possibility that trees

1 have to be of a certain type, or any brush or vegetation.
2 You might have to put them in vaults. But when the cities
3 confront this with the developers, they say, "Okay, we
4 want to use it for a park. We've got to at least be able
5 to have lawn," okay. How about a path to walk on? Okay.
6 Well, we need a few shade trees. No? No. I mean we're
7 going to go like 300 feet out from the levee. So we're
8 going to try and work on that. But that's one area that,
9 you know, we ought to be able to work through it, we ought
10 to be able to put vaults or something with some type of
11 tree. Not a nut tree that has attraction for squirrels,
12 but something that would allow the open space that's there
13 to be better utilized. You're going to be in the middle
14 of it. You're working out those vegetative guidelines
15 with the Corps.

16 SECRETARY DOHERTY: Sand willows.

17 Sandbar willows.

18 (Laughter.)

19 MR. NOMELLINI: Those sandbar willows, we don't
20 have a great deal of enthusiasm for them. But if we've
21 got to have them, I guess we've got to have them. They're
22 not specified in our operation and maintenance manual that
23 we have to take care of them. But anyway. We'll work it
24 out.

25 But we do hope to have this thing worked out

1 together. We don't want to be in conflict if we can avoid
2 it. But we're pretty desperate. We think there's not
3 much choice for us to get pretty aggressive and move
4 ahead.

5 All right. Thanks.

6 BOARD MEMBER BURROUGHS: Well, again, I just
7 commend you for your forward thinking on your planning. I
8 thought it was superb.

9 MR. NOMELLINI: All right. Thank you very much.
10 We appreciate the opportunity, and we look forward to a
11 close working relationship.

12 BOARD MEMBER BROWN: It's good to see you at the
13 dais again, Dante.

14 MR. NOMELLINI: All right. Thanks.

15 BOARD MEMBER RIE: I have a question for Mr.
16 Hester.

17 Are you attending the design review meetings with
18 DWR?

19 CHIEF ENGINEER HESTER: No, I have not attended
20 any of the discussions on this one yet.

21 BOARD MEMBER RIE: Were you invited by DWR?

22 CHIEF ENGINEER HESTER: As Chris indicated, they
23 had submitted the application to Board staff some time
24 ago. There was some initial contact between DWR staff
25 about what the status of the permit was. But I haven't

1 been part of the meetings on it yet.

2 MR. NOMELLINI: We want him there. If you'll
3 allow him to participate, we'll make sure our engineers
4 make sure he's included and notified. And you, Jay, as
5 well. You know, we're looking forward to picking up the
6 pace to get this focused. So we'll do everything we can
7 to make sure whoever it is you want included included.

8 BOARD MEMBER RIE: Well, I think it's great to
9 meet with DWR to get that technical design perspective.
10 But the Board staff has to start attending those meetings,
11 because you're going to have to process the permits where
12 applicable.

13 CHIEF ENGINEER HESTER: We understand. And I
14 will say that we have been aware of the sense of urgency
15 for the district on moving this process forward. And as
16 Jay indicated, this was one way to elevate the importance
17 of this project. You know, from a review standpoint, as
18 you know, we've been transitioning, we've been filling
19 some vacancies in the Floodway Protection Section. And so
20 I think now we have the folks that we can actually begin
21 to distribute the workload a little bit and give them the
22 guidance they need to complete the application process in
23 a timely way.

24 BOARD MEMBER RIE: Would it be possible for you
25 to go ahead and start taking the lead on these meetings

1 rather than DWR, and you guys schedule a meeting to start
2 talking about the details and then include DWR?

3 CHIEF ENGINEER HESTER: Absolutely. I -- whether
4 I take the lead or whether it's a -- you know, a joint
5 effort between DWR, Board staff and the district
6 engineers, I think -- and the Corps. Actually I mean one
7 of the key details here is that we are going to need Corps
8 buy-in. I mean there are some issues that Mr. Nomellini
9 pointed out in terms of, you know, what is going to be
10 required in terms of an alteration to the flood control
11 projects.

12 I understand the -- the thrust of the question
13 is, how do we work with applicants early in the process in
14 order to give them as much information as we can about how
15 their permit application's going to be reviewed?

16 So I agree it's important for us to do that.

17 BOARD MEMBER RIE: Yeah, and I don't think we can
18 wait for the Corps to figure out what their procedures are
19 going to be. It seems like that's going to be a long
20 process. And it's not going to be decided this month or
21 next.

22 CHIEF ENGINEER HESTER: And my comment was more
23 not to the process but the technical -- making sure that
24 the project as formulated is something that the Corps can
25 buy into.

1 BOARD MEMBER RIE: Thank you.

2 PRESIDENT CARTER: Any others questions?

3 Okay. Thank you very much.

4 We'll move on to wrap up Item 17, Report on the
5 Long-Term MOA with DWR.

6 MR. NOMEILLINI: Thank you very much for the time.

7 PRESIDENT CARTER: Thank you.

8 Mr. Punia.

9 EXECUTIVE OFFICER PUNIA: Yes. We just want to
10 inform the Board that with the guidance from the Board
11 Executive Committee and with help from Ginny Cahill, we
12 have a long-term MOA drafted which is acceptable to the
13 Board's Executive Committee. And we had our first meeting
14 with the Department of Water Resources to start
15 negotiating on the long-term MOA. And the Department of
16 Water Resources at the first meeting were not prepared to
17 provide us the detailed comments, but they have promised
18 that they will review it and provide us the comments
19 before our next Executive Committee meeting.

20 So we are moving ahead with our long-term MOA.

21 The main theme of the MOA is that we are
22 proposing that the floodway protection should start
23 reporting to the Board directly just like direct staff.
24 The rest of the people in Department of Water Resources
25 supporting the Board will stay under the direction of the

1 Department of Water Resources, but they will continue to
2 provide services to the Board. For example, the people
3 who assist us in the project sites, Anna Hegedus' branch,
4 the cost sharing the projects with the U.S. Army Corps
5 Engineers, they will continue to work under the DWR
6 direction but provide needed assistance to the Board. And
7 similarly the people who inspect the levees, the people
8 under Jeremy Erich's branch, will continue to work under
9 the direction of the DWR but will provide the needed
10 support to the Board.

11 But the people in the Floodway Protection Section
12 under the proposed long-term MOA will start reporting to
13 the Executive Officer of the Board.

14 And then we are -- also this long-term MOA
15 clearly states that we will have independent legal
16 services from Department of Justice.

17 And then in this MOA we are also rescinded all
18 the previous delegation to the Department of Water
19 Resources Director, and then we are redelegating some of
20 the authorities to the Department of Water Resources to
21 continue our work.

22 So we are hoping that we will get the
23 constructive comments from the Department of Water
24 Resources by middle of July during our next Executive
25 Committee meeting. So then we will incorporate some of

1 those comments. And then we'll bring the long-term MOA in
2 August Board meeting to you for your consideration.

3 Ginny may have some other items.

4 Ginny, I may have missed something. So do you
5 want to address the Board?

6 LEGAL COUNSEL CAHILL: No, I think those are both
7 the -- the idea is that the Board has direct staff that
8 reports directly to the Executive Officer. And the Board
9 hires and fires the Executive Officer. The Executive
10 Officer hires-fires the staff -- the direct staff. And
11 DWR continues to provide what we call administrative and
12 programmatic support. And administrative are those things
13 like contracting and personnel and payroll and those sorts
14 of things. And the more interesting issue is really
15 programmatic: How do they support your programs? What
16 programs are their own? How do we sort of divide up
17 responsibilities? And so I think that's where most of the
18 negotiation's going to be.

19 EXECUTIVE OFFICER PUNIA: And I want to just add
20 that Ginny is the primary author of this MOA, and she did
21 a great job as usual. And Butch Hodgkins and Ben provided
22 very constructive comments. We have a good package as a
23 first draft.

24 PRESIDENT CARTER: I think in general just, you
25 know, focusing on the underlying concept of the

1 relationship between the Board and DWR, our perspective or
2 what we're putting forward is that the Board's primary
3 responsibilities are to ensure the integrity of the State
4 Plan of Flood Control and its facilities. And we do that
5 through our regulation of encroachments and the permitting
6 process and whatnot. And we also then provide assurances
7 to the federal government on that.

8 And then the other piece is providing an
9 opportunity for the public to have input into the whole
10 process of the State Plan of Flood Control and the
11 improvements and whatnot.

12 On the other hand, DWR's responsibilities are
13 basically doing the planning for the improvement to the
14 State Plan of Flood Control for the Central Valley and
15 controlling and managing the funds that the state supplies
16 in terms of its cost shares and so forth.

17 So we want to -- that's in very general terms
18 kind of how we're seeing the two different roles fall out.
19 And that explains the reason for why we're saying that the
20 project development group is more appropriately under the
21 direction of DWR, because that is more of a planning and
22 design -- it's a project management group. And that's
23 more consistent with kind of our perspective in what DWR's
24 role is.

25 And by the same token, the Floodway Protection

1 Section, or basically John's group, is doing support of
2 our encroachment regulation process. And so that more
3 appropriately resides with us.

4 The one group that kind of divides its
5 responsibilities amongst both projects as well as
6 permitting and encroachments is the Inspection -- Floodway
7 Integrity Inspection Branch. And we're working that out
8 and the Board is working at getting some resources to
9 support its inspection needs. But in the meantime, that
10 group is going to stay within DWR but support the Board to
11 the extent that it can. And when it cannot, we want to
12 know about that, so that we can try and work with DWR to
13 get the appropriate resource allocation to support our
14 needs as well.

15 So that's kind of the general concept behind the
16 MOA.

17 BOARD MEMBER RIE: Was there any discussion about
18 the group that prepares the CEQA documents who they report
19 to?

20 PRESIDENT CARTER: That -- isn't that group part
21 of John's group?

22 EXECUTIVE OFFICER PUNIA: Yes. For the
23 encroachment permits they are part of the floodway
24 protection group. But for the projects they will be part
25 of the flood development group. So we are proposing that

1 the people who will be working on the encroachment permit,
2 they should report directly to the Board staff.

3 BOARD MEMBER RIE: Okay. And which group of
4 people prepare the Mitigated Neg Decs?

5 EXECUTIVE OFFICER PUNIA: You are referring to
6 Today's?

7 BOARD MEMBER RIE: (Nods head.)

8 EXECUTIVE OFFICER PUNIA: So they are people from
9 Mike Inamine 's group. They are the Levee Evaluation and
10 Critical Repair Office -- Critical Repair Section of the
11 office, yeah. They will continue to report to the DWR.

12 BOARD MEMBER BURROUGHS: How soon do you think
13 we'll have it complete? You said you're close. Is
14 that -- did I miss it or --

15 PRESIDENT CARTER: We're hoping to try and have
16 something fairly firm by our July meeting. I don't
17 know -- Ward, you want to give --

18 STAFF COUNSEL TABOR: I would hope that we are --

19 PRESIDENT CARTER: Could you maybe approach the
20 dais, please.

21 Ward Tabor is doing much of the legal review for
22 DWR on the MOA and advising them.

23 STAFF COUNSEL TABOR: Ward Tabor, DWR. And you
24 woke me up from my afternoon nap, so I apologize.

25 I provided my comments on it today to Dave

1 Gutierrez. I do think that we will have a draft back to
2 the Executive Committee before that meeting so we can have
3 a productive discussion. So I anticipate that it may well
4 be ready to bring back to the Board for it's July meeting.

5 PRESIDENT CARTER: Okay. So that's what we're
6 kind of working towards.

7 BOARD MEMBER BURROUGHS: I wanted to follow up on
8 a topic that Teri brought up earlier.

9 If we have so much money allocated to us for
10 funding our attorney, if we require more, do we have any
11 language in our letter of understanding that DWR would be
12 available to us if we needed?

13 STAFF COUNSEL TABOR: That's actually already
14 covered in the interim MOA. And it is covered in the new
15 draft that Ms. Cahill put together. And DWR is prepared
16 to provide additional legal services and has been for the
17 Board. Myself and Nancy Finch and several other attorneys
18 put in work for the Board. Scott Morgan, former Board
19 counsel, works on the Central Valley Flood Protection Plan
20 process. I have an attorney, Karin Shine, does real
21 estate work on behalf of the Board even though you've
22 never seen or met her. So I have a whole number of staff.

23 And it's probably the equivalent of probably one
24 and a half to two PYs equivalent that do Board work but
25 aren't being charged to your budget. So it's provided by

1 DWR overhead.

2 BOARD MEMBER BURROUGHS: Well, thank you. I just
3 wanted to make sure that we have some venue of getting the
4 help required if we require more.

5 With that, I know that we have requested some
6 more support staff, especially for CEQA. And then based
7 on the budget, depending on how the budget is approved, do
8 we have any language in this letter of understanding -- or
9 the document that if the budget were not to come through,
10 we would have resources to help us get through the process
11 of having extra staff to help us?

12 STAFF COUNSEL TABOR: That at this time is not
13 addressed in the draft MOA.

14 BOARD MEMBER RIE: I think that's a really good
15 point.

16 BOARD MEMBER BURROUGHS: Well, is there any way
17 that we could maybe have some language for an emergency,
18 sort of some unforeseen, in response to the budget not
19 being approved, for what we're requiring right now? We've
20 taxed our staff very heavily on the workload that has been
21 given us since January 1st, and it's not sustainable. So
22 we need to be able to have a staff. And I know that we
23 have the request in there, but it's based on the budget.
24 If the budget doesn't come through, then we will need that
25 support staff to help our staff through this process.

1 STAFF COUNSEL TABOR: Well, DWR has the same
2 dilemma. We do have staff. But much of our new staff is
3 supported by the bond measures. And those bond measures
4 aren't really available for general administrative support
5 or encroachment control and that kind of activity.

6 BOARD MEMBER BURROUGHS: I understand the dilemma
7 of the budget for all people. But I'm saying in the event
8 that we needed help, is there any language in this that
9 would allow more support to be available to us if it's
10 available?

11 STAFF COUNSEL TABOR: Well, what the MOA that has
12 been provided by Ms. Cahill provides is that the
13 Department will continue to provide administrative and
14 programmatic support for the Board. And, you know, we'll
15 be responding to that. And obviously that's what we
16 intend to be our goal, obviously. We're constrained based
17 upon available funds and staff as well. But obviously
18 we're here to work with you.

19 BOARD MEMBER BURROUGHS: Well, we appreciate
20 having a good sister agency to work with.

21 STAFF COUNSEL TABOR: Good.

22 PRESIDENT CARTER: Any other questions?

23 Thank you.

24 Anything else to add?

25 Jay, your report.

1 EXECUTIVE OFFICER PUNIA: No, that's it.

2 PRESIDENT CARTER: Okay. We have three final
3 items.

4 One, we kind of skipped over Board comments or
5 any other task leader reports, other than the bulletized
6 items under Item 16.

7 Maybe we can just go down the row.

8 Mr. Brown, do you have anything, any comments
9 you'd like to share with --

10 BOARD MEMBER BROWN: Thank you, Mr. Chairman.
11 Two of them.

12 Thank you for setting up the meeting with
13 Orestimba. Rose Marie has some good ideas of whom it
14 might be most productive to meet with. So perhaps Jay
15 could get with her. And I would go with Rose Marie's
16 recommendation on whom might be the most productive to
17 spend some time with on the Orestimba project.

18 The other thing, I'll be out of town two weeks
19 vacation, but will be back July 14th, Jay. So any time
20 the week of July 14th would be okay. I have my cell
21 phone. And if you need to call me, please do so.

22 Another issue. I'm doing some consulting work
23 for an attorney in Los Angeles, Susan Trager, on pre-1914
24 water rights. And that water right is an issue up in
25 Plumas County. I don't see any of that coming before this

1 Board, either the client or the issue itself, Mr.

2 Chairman.

3 PRESIDENT CARTER: Okay.

4 EXECUTIVE OFFICER PUNIA: Ben, just a little
5 clarification on Orestimba Creek.

6 So I'm assuming I will have the meeting with the
7 Congressman Cardoza's office and invite Board Member Rose
8 Marie and John Brown to participate in that meeting?

9 PRESIDENT CARTER: I think what you ought to do
10 is get with John and Rose Marie and decide what the next
11 steps are. If Congressman Cardoza's office is the right
12 one, then do that and set that up, and let's try and have
13 that meeting before -- well, as soon as the parties can
14 get together.

15 Rose Marie.

16 BOARD MEMBER BURROUGHS: I don't have anything to
17 add other than what was already reported earlier.

18 Ben, were you going to talk a little bit more
19 about the roundtable?

20 PRESIDENT CARTER: No. Is there something else
21 to add?

22 BOARD MEMBER BURROUGHS: No, I just -- I think we
23 covered everything.

24 PRESIDENT CARTER: Covered it, yeah.

25 BOARD MEMBER BURROUGHS: Thank you.

1 SECRETARY DOHERTY: I've got five items I'd like
2 to discuss.

3 One of them that I feel very strongly about is
4 Senate Bill 1360. We have addressed it. I got a copy of
5 the newest alterations from amendments from Jay. It
6 sounded like he was in favor of it. I was also told that
7 I'm supposed to be supportive of the Governor. However,
8 having sat on the Board now for two and a half, three
9 years, I do have an opinion about it. And I think the
10 idea of doing away with the Board and leaving the seats
11 vacant is totally unacceptable. I can't understand why we
12 can't object to something like this.

13 And as a member of the public -- and as a member
14 of the public, bringing applications before us -- Scott,
15 would you like to come up and just kind of address this
16 idea of having an entirely new Board or whatnot, how it
17 affects applicants.

18 MR. SHAPIRO: Scott Shapiro, I guess speaking as
19 General Counsel to the Flood Control Association.

20 We had a board and member meeting this week and
21 spoke on this issue. And the board took an "oppose unless
22 amend" position on this bill. And I can give you a fairly
23 succinct explanation for it.

24 Our expectation is is that the Governor's
25 probably not terribly motivated to provide new

1 appointments to this Board until the Governor knows if he
2 has to. And so if this bill is passed in the last week of
3 August and then if he elects to assign it in September,
4 either because he likes this provision or he wants the
5 other aspects of the bill, and then does reappoint, and
6 we'd be pleased to have this Board reappointed in
7 September or October, we don't expect that the Senate's
8 going to be in a position to do confirmations until
9 January. The Senate typically only comes back for a few
10 days or a week at most at the end of the year.

11 That may change this year. We have new Senate
12 leadership. But if the Senate doesn't come back until
13 January, we'd be in a position of needing to have Senate
14 confirmation on all seven Board members occur in the first
15 two and a half weeks of the year for you to be able to
16 seat and arguably not have a board to have directed staff
17 to have sent out agendas in December and do those things.
18 And from an applicant's standpoint, your big permit months
19 are January, February, March and sometimes April. That's
20 when we need to get the permits done in order to have a
21 good construction season.

22 So the Association's absolutely opposed to it.
23 And to be extent that the Board members have any ability
24 to speak to it, we would encourage that.

25 SECRETARY DOHERTY: Thank you, Scott.

1 BOARD MEMBER BURROUGHS: Have you sent a letter
2 with your information?

3 MR. SHAPIRO: A letter will be sent probably next
4 week. We only had the meeting two days ago. But there
5 will be a letter sent with an "oppose unless amended".

6 BOARD MEMBER BURROUGHS: And could you send us a
7 copy as well?

8 MR. SHAPIRO: Be pleased to.

9 BOARD MEMBER BURROUGHS: Thank you.

10 SECRETARY DOHERTY: And my personal feeling was,
11 so if I oppose the Governor on this and he tells me,
12 "You're finished," well, I'm going to tell him, "Thank
13 you. I enjoyed serving you. I learned a lot," and, hey,
14 I'll be on my way.

15 But I really think that we need to be for the
16 sake of the public a little more concerned about this
17 1360.

18 BOARD MEMBER BURROUGHS: As least the aspect of
19 the --

20 SECRETARY DOHERTY: Yeah, yeah. Not that it's
21 going to happen. But I think we need to be more concerned
22 about it.

23 My next item -- Steve Dawson is still back here,
24 so thank heavens.

25 I have been talking about pipes, because the

1 Family Water Alliance came to me a year or so ago and
2 wanted to put some pipes through. And they were told,
3 "Well, this is the way it has to be." And so, anyway, we
4 discussed it here. And it was my understanding, and
5 perhaps I was wrong, that it was going to be standardized.
6 But when you go to put fish screens on these pipes, the
7 location has to be decided upon.

8 So, anyway, it was -- "prior to installation of
9 new pumps and/or a fish screen an engineer licensed in the
10 State of California shall certify in writing to the
11 Reclamation Board the existing positive closure device and
12 pipe through the levee are structurally sound and
13 functional."

14 Who in California is going to certify? That's
15 become a real problem. So, when these people are coming -
16 and there were some grants out there - to get this work
17 done before the new year began, how can they proceed when
18 they don't know what we want? And I think -- Steve, I
19 think you were at a meeting with Jay. And, Gary, you were
20 there. How can we tell these people this is what we're
21 going to want if we don't know what we want? So I am
22 concerned about that. And I mean I just kind of wanted
23 the rest of you to know the history of what was going on
24 there.

25 And it's not being standardized.

1 EXECUTIVE OFFICER PUNIA: That is correct. We
2 had a meeting with the Family Water Alliance, Ashley -- I
3 forgot the last name.

4 SECRETARY DOHERTY: Indrieri.

5 EXECUTIVE OFFICER PUNIA: Yes. And there was a
6 member from the Family Water Alliance. And based upon the
7 discussion, they expressed these concerns that no
8 registered professional engineer is going to certify the
9 levee the way we phrased the Condition 13 on the permit.
10 And since then, we have revised that condition, and we are
11 willing to modify the permits we previously issued.

12 So we have softened the certification
13 requirement. We are not requiring a certified -- a
14 professional engineer to certify. We are saying any
15 professional person who works in this pipe inspection can
16 give the information the pipe is structurally safe and
17 provide us the information to us. And we will -- along
18 with that certification from a professional person, along
19 with our evaluation, we will authorize that project.

20 But we cannot provide the standard because there
21 are various types of pipes that what type of information
22 will satisfy the conditions. So it will be site specific
23 information. But we are not requiring a professional
24 engineer to certify.

25 And we have sent that language to the Family

1 Water Alliance for their information. So that's where we
2 are on this subject.

3 Gary, anything I'm missing from our meeting?

4 CHIEF ENGINEER HESTER: No, that covered it,
5 unless Steve wants to add something to that. But we did
6 make a substantial change to that permit condition. And I
7 believe all the parties at the meeting, including the
8 Bureau of Reclamation representative who's administering
9 the grant program, as well as Fish and Game and I believe
10 maybe Fish & Wildlife Service was also at that meeting, I
11 think we came to a pretty good resolution that still
12 protected the Board's interest in making sure that there
13 was some inspection of these pipes and yet making it, you
14 know, more straightforward for the folks that are actually
15 making the change in order to meet that criteria.

16 SECRETARY DOHERTY: Well, I think that's really
17 what we wanted. But, you know, I had thought and I had
18 gone back and reported, oh, we're going to standardize,
19 and then find out that it wasn't standardized. And that's
20 what concerned me.

21 And then the next thing that came out was -- I
22 had a call from a lady over on the Sutter Bypass, a
23 staging area. And I called Mr. Punia because I thought
24 that was the way to go. But I did go over and I looked at
25 it. And he had them, Brian Whitaker and Angelica Aguilar,

1 who are both land agents, call me and they did talk to me.

2 But you have to know that I did talk to her. She
3 felt pressured. She received three visits. She's an
4 elderly lady. She has appeared before us before.

5 They said the first visit was to explain the
6 project to her. She said they came back. And the third
7 time they stood on one leg and then on the other. And
8 then pretty soon she began to think, "Oh, oh, oh."

9 And so she did sign this agreement, I mean -- and
10 she did sign it. I've got a copy of it. A staging area
11 might mean a tractor. And they said, well, they didn't
12 know what was involved. Well, we've got two buildings or
13 three for offices. We've got these huge vats for mixing
14 stuff. We've got these huge, huge excavators with these
15 great big tongues that dig the earth out and then the
16 other ones that put the earth in. We've got tractors.

17 There's I don't know how many bags. I couldn't
18 put my arms around them. Probably three of us could --
19 maybe four of us could put our arms around these huge bags
20 filled with stuff. It's taken up this whole entire area.

21 So from one tractor to all of this stuff. And
22 then the fence had to be taken down, so the cattle can't
23 be moved around. It can't be used as a rotational grazing
24 area.

25 And I don't know -- she supposedly is going to

1 write a letter. They said they could only give her \$500.

2 Well, she's out more than \$500.

3 But I just felt that -- and the contractor was
4 very nice, she said. But I don't think -- that if you're
5 in the position of acquiring land for a staging area,
6 surely you would have some idea of what's going to go in
7 there. I know when I make a cake, I need a bowl and a
8 beater and a baking pan and an oven.

9 And I mean one little tractor coming in is
10 totally different than 25 or 30 -- there were all kinds of
11 equipment sitting around there. And I just don't know the
12 answer to this. Should I have even talked to her?
13 What's -- she can write to you. But I want you to know
14 that I did talk to her. I did feel concerned about it
15 once I saw what it looked like.

16 EXECUTIVE OFFICER PUNIA: I think, yes -- I
17 discussed with our real estate people and alerted them
18 that they need to be sensitive when they're dealing with
19 the private citizens. And they indicated that if her
20 damages are more than what was agreed upon into the lease,
21 then she can write and then they can renegotiate and
22 provide her some additional compensation.

23 But at this time, because they have the right of
24 entry negotiated, that they cannot offer anything
25 additional unless she provided additional information that

1 it's different than what was envisioned by her when she
2 signed on on the document.

3 SECRETARY DOHERTY: I was surprised. They didn't
4 offer her anything. They said, "We can't offer anything
5 for staging areas." If I was her age, maybe I would have
6 agreed with that. But at my age right now I would have
7 said, "Like hell you can't."

8 (Laughter.)

9 SECRETARY DOHERTY: But anyway.

10 And then the next thing is the Sutter Bypass. As
11 you all know, I've had all kinds of people come down here
12 and testify on the Sutter Bypass. And there are easement
13 deeds for the Sutter Bypass. So last fall it was -- and
14 I'm sorry Butch isn't here, because he said directly to
15 Butch, "Oh, the hydraulic analysis is all done." Well,
16 it's not all done. And the figures that are coming out
17 don't match the figures that they gave us.

18 So every month, I wanted it reviewed by somebody.
19 Well, no, we still haven't gotten the figures. Now, this
20 has been three years that this hydraulic analysis -- and
21 it's passing supposedly the proper amount of flood flow
22 and it has the proper freeboard. But I don't see
23 anything.

24 So I just want all of you people to be aware of
25 that, because they are -- they have instituted cleaning in

1 stages in certain areas. However, we as the Reclamation
2 Board -- or the Central Valley Flood Protection Board have
3 a responsibility to make sure that the bypass acts as a
4 bypass. And it broke in '97 and it could break again.
5 And we would subsequently be responsible. And this time I
6 know we'd be sued.

7 PRESIDENT CARTER: I just want to add a comment
8 to that. This has been going on so long and there have
9 been so many iterations. And almost under a veil of
10 secrecy this process is happening. And it smells like
11 they are trying to make the model say -- justify their
12 conclusion rather than actually do a sound and open
13 engineering analysis on this. It just doesn't take that
14 long to do these one-dimensional models and get data in
15 and out.

16 And so it's --

17 SECRETARY DOHERTY: I'm glad you said it. I
18 didn't

19 PRESIDENT CARTER: -- you know, it does not pass
20 the smell test. I'm sorry.

21 SECRETARY DOHERTY: And then the one good thing
22 that happened, it's a win-win, and this is the Colusa
23 Subreach Planning Report. We had our final celebratory
24 meeting, if one can call it that, on Monday. Colusa
25 County withdraw from the planning process entirely.

1 However, in this particular case, it was a win-win.

2 If this \$1.4 million study had gone to a
3 developer, I would have been beating and crying and
4 running up and down the streets of Colusa. However, it
5 became the mitigation for the Tisdale Weir. So in that
6 respect it was a good thing. And if anybody wants to read
7 this, or in ten years -- oh, and then the Parks and
8 Recreation Department just gave Colusa 360,000 - was it? -
9 for a study for the park for a boat landing, because
10 there's a lot of fishermen that come up there. And of
11 course you won't see the changes tomorrow or next year,
12 but probably the year after that you'll see some changes.
13 And it will probably bring a lot of people into Colusa.

14 So, anyway, let me think. Now, did I get through
15 everything I wanted to get through?

16 PRESIDENT CARTER: That was five.

17 SECRETARY DOHERTY: Okay, five. I'm done.
18 Somebody else's turn.

19 PRESIDENT CARTER: Teri.

20 BOARD MEMBER RIE: I want to thank all the staff
21 and Jay. These staff reports are looking great. In the
22 last three years -- I think this year the staff reports
23 are consistent, they're complete, they're well organized.
24 And, you know, to all your credits. You're just doing a
25 great job with these staff reports. And we're getting

1 things early. And it's very rare that we're just handed
2 something at a Board meeting and asked to make a decision.
3 So you all should be commended.

4 And the information's getting on the website, so
5 it's out there for the public. So the whole world knows
6 what this Board is doing. And they can see from the
7 website that you all are doing very important work and
8 working really hard and looking out for the citizens of
9 California and protecting them from floods. So great job.

10 And, you know, back to what Lady Bug brought up
11 as far as the legislation. It would be a shame to end
12 this Board in January, especially now that we've all
13 figured out what a 104 is and a 408 and an 84-99, an RNU.
14 And Ben knows what a BMP is.

15 (Laughter.)

16 BOARD MEMBER RIE: You know, it takes a long time
17 to learn all of the numbers and the terminology. And, you
18 know, I think this Board is doing great work together and
19 it should continue.

20 PRESIDENT CARTER: Okay. I have nothing to add.

21 Mr. Punia.

22 EXECUTIVE OFFICER PUNIA: Nothing to add.

23 Then I'm glad that we finished the meeting at
24 4:35.

25 Thank you.

1 PRESIDENT CARTER: We've got to do Future Agenda.

2 BOARD MEMBER BURROUGHS: Before we go on to
3 Future Agenda, I do have another comment on some of the
4 discussion we've just had here.

5 Ben, do you have any suggestions or
6 recommendations in regards to how our Board would respond
7 to this legislation, either as individuals or as a board?

8 PRESIDENT CARTER: Well, we can either
9 individually or collectively draft an opinion and send
10 that up through the Resources Agency to the Governor's
11 Office.

12 And with regard to the expiration of the terms of
13 the Board members, DWR has stated they do not have a
14 position on it and have expressed that to the Governor's
15 Office. Their perspective, what I've been told by Kasey,
16 is that that's really the Governor's decision. They don't
17 have -- it doesn't affect DWR at all, so they don't have
18 an opinion on it.

19 But we would -- that's the process, either as a
20 group or individually express your concerns to the
21 Governor's Office. I'm sure Kasey would be happy to pass
22 along any concerns that we have. Or you can express them
23 directly to -- it probably ought to go through the
24 Resources Agency person and then to John Moffatt in the
25 Governor's Office who does the resources legislation.

1 SECRETARY DOHERTY: Now, why would we have to go
2 through the Resources Agency?

3 PRESIDENT CARTER: Well, because that's the chain
4 of command. We are in the Resources -- we are part of the
5 Resources Agency. And they have a legislative -- Deputy
6 Secretary of Legislation with the Resources. And then
7 from there Resources legislation recommendations go to the
8 Governor's Office. They would go to John Moffatt in the
9 Governor's Office.

10 BOARD MEMBER BURROUGHS: I would like to see
11 something come from our Board.

12 PRESIDENT CARTER: Okay. We can do that.

13 SECRETARY DOHERTY: It's not that we're going to
14 be replaced or 1 or 2 of us or 3 or 4 of us. But that
15 continuity is necessary.

16 PRESIDENT CARTER: You know, I can probably draft
17 a letter on behalf of the Board and send it up the chain
18 of command.

19 BOARD MEMBER BURROUGHS: I would like that.

20 SECRETARY DOHERTY: I would like that.

21 PRESIDENT CARTER: Okay. Are we kind of in
22 general agreement that it's not a good idea, that -- I
23 guess I'm hearing two things: One is we don't want a
24 wholesale replacement of the Board again. We want some
25 institutional memory, some continuity from year to year.

1 BOARD MEMBER BURROUGHS: That's correct.

2 PRESIDENT CARTER: That's a good thing, we think.

3 But do we have an opinion on whether the terms --
4 the expiration deadlines --

5 BOARD MEMBER BURROUGHS: In terms of year, I
6 don't think so. But in terms of functionality, Scott
7 brought up the point of the timing is very crucial to the
8 efficiency and the continuity of the work that we have to
9 do. So I think for those two points, it would be
10 important.

11 PRESIDENT CARTER: Would the Board go as far as
12 to say that it does not support the legislation if that
13 clause is included?

14 SECRETARY DOHERTY: I feel that strongly.

15 BOARD MEMBER BURROUGHS: I do too.

16 LEGAL COUNSEL CAHILL: You know, the Board can't
17 be taking action on this, because it's not agendized for
18 action. But I think if the Chairman just gets a sense of
19 where people are as individuals.

20 BOARD MEMBER BROWN: In your letter -- if I was
21 going to draft a letter, I think I would draft it in a
22 tone that we all have enjoyed serving. And if we can
23 continue to be of service, we're all willing to do so.

24 And it might be -- we suggest it would be in the
25 best interests if there was three Board members that would

1 continue to serve as a two-year term and four Board
2 members as a four-year term, or something like that, to
3 have the overlapping rotation. And if --

4 PRESIDENT CARTER: Which is in the legislation.

5 BOARD MEMBER BROWN: Well, that beats the
6 wholesale changing of the Board at once, addresses that
7 issue.

8 PRESIDENT CARTER: What the change in the
9 legislation is basically saying, that there's a deadline.
10 Essentially the Legislature is telling the Governor that
11 he's got until January 31 to get new Board members on.

12 BOARD MEMBER BROWN: Just tell them you've polled
13 the Board and we've all enjoyed serving. And if we can
14 continue to be of service, we would be more than pleased
15 to do so, something to that effect.

16 BOARD MEMBER RIE: Maybe we should all write a
17 letter.

18 SECRETARY DOHERTY: No. We wrote our own letters
19 of application.

20 I don't understand this we have to go through the
21 chain of command. If I want to write a letter to my
22 Governor, why can't I?

23 PRESIDENT CARTER: I'm not saying you can't, but
24 as an individual. But as a Board -- if I'm writing on
25 behalf of the Board, we need to at a -- when we say chain

1 of command, I'm saying that you need to inform the people
2 that you work with what you're doing. You don't want to
3 blindside anybody in the administration. I mean that's
4 just not a good idea, not good policy.

5 SECRETARY DOHERTY: So what I do then is go out
6 and get ten friends to write letters as individuals.

7 PRESIDENT CARTER: Well, you could do that.

8 SECRETARY DOHERTY: No, I'm not saying I'm doing
9 this. I'm just asking.

10 PRESIDENT CARTER: Or you could write your own
11 letter to the Governor about this as a private citizen and
12 as a Board member.

13 BOARD MEMBER BROWN: If you write it, it probably
14 should go to Mike Chrisman, as the Secretary of Resources.

15 PRESIDENT CARTER: I might. It could go that way
16 or it could go different ways. But at a minimum it needs
17 to be -- the topic I think needs -- if I write it as Board
18 President, it would need to be discussed with them so they
19 have a heads-up before it lands in the Governor's Office.

20 BOARD MEMBER RIE: I think I'm going to write my
21 own letter.

22 PRESIDENT CARTER: Okay. Mr. Shapiro, do you
23 have a comment?

24 BOARD MEMBER BROWN: Let's see what Scott's got
25 to say.

1 PRESIDENT CARTER: Mr. Shapiro, do you have a
2 comment?

3 MR. SHAPIRO: If you'll indulge me for thirty
4 seconds to build upon a comment that you made, President
5 Carter.

6 The law currently provides staggered terms. And
7 that was a concept that was proposed by the Legislature
8 and agreed to by the Governor last year. What this is
9 simply doing is the Legislature is pushing the Governor to
10 make the appointments to get to staggered terms. And
11 they're doing a game of chicken, saying, "Replace all
12 seven. And you can reappointed if you want so that we
13 will move to the staggered terms." So the concept of,
14 well, should three remain or four remain isn't really the
15 issue. The issue is the Legislature pushing the Governor
16 to start the staggered term now as opposed to when the
17 Governor wants to.

18 SECRETARY DOHERTY: But the thing that worries
19 me, Scott - and this is just my personal opinion - is you
20 may end up with somebody who has nothing at risk
21 basically, who lives in town and thinks just simply about
22 the urban area. That's where I'm coming from.

23 MR. SHAPIRO: And I share your concern.

24 PRESIDENT CARTER: That could happen regardless.
25 It's just that the legislation is starting the clock or

1 it's creating a deadline, all it is. It's forcing the
2 process. But that situation could happen regardless.
3 It's just whether it happens now or later.

4 LEGAL COUNSEL CAHILL: You know, if Board members
5 wanted to write individual letters, they could get them to
6 Ben or to Jay, who could collect them and send them up the
7 chain. I mean not that every Board member would have to.
8 But those that were so inclined, if you wanted to have the
9 impact -- because you can't make a collective decision
10 today. You could individually write letters, but they
11 could be clipped together and sent on.

12 BOARD MEMBER BURROUGHS: Thank you for that
13 suggestion.

14 PRESIDENT CARTER: Okay. Future Agenda, Item 18.

15 We had a draft that was in our portfolio this
16 morning for July 18th.

17 First page is pretty much the same as everything,
18 with the exception of an item on the Transition of the
19 Central Valley Flood Protection Board - Long-Term MOA,
20 which we hope we can bring before the Board in July.

21 Another extensive consent calendar.

22 No hearings and decisions.

23 Requested Actions:

24 Natomas Levee Improvement Project;

25 84-99 Levee Rehab for Madera County;

1 Sutter County Feasibility Study; and
2 The Lower San Joaquin River Feasibility
3 Investigation. So that was Item 13 on the today's agenda.

4 So are there other items that Board members wish
5 to include in the agenda for July?

6 Does staff have any other -- Rose Marie.

7 BOARD MEMBER BURROUGHS: We talked about having
8 FEMA come and give a presentation to us. Is that on?

9 PRESIDENT CARTER: It's not on here.

10 BOARD MEMBER BURROUGHS: So it's -- was it Kathy
11 Schaefer?

12 EXECUTIVE OFFICER PUNIA: Kathy Schaefer.

13 LEGAL COUNSEL CAHILL: And, President Carter, I
14 think we asked the AB 1147 people to come back. And you'd
15 probably want to make that an action item in case the
16 Board wants to formally submit comments on those proposed
17 regs.

18 PRESIDENT CARTER: Okay.

19 LEGAL COUNSEL CAHILL: And I think there's an
20 item that's an appeal of a staff denial of permit. I
21 don't know if that's on here yet or not.

22 BOARD MEMBER BURROUGHS: Would the FEMA also be
23 possibly an action item if we decide to do something and
24 getting involved with public -- helping them with their
25 public outreach? Kathy had mentioned that.

1 PRESIDENT CARTER: We can talk to Kathy about
2 that.

3 BOARD MEMBER BURROUGHS: Yeah, she'd mentioned
4 that. That's why I said that.

5 EXECUTIVE OFFICER PUNIA: Gary, we have an item
6 on appeal. Somebody wants to --

7 CHIEF ENGINEER HESTER: The appeal is an
8 applicant that wanted to put --

9 PRESIDENT CARTER: Steve, why don't you come on
10 up.

11 CHIEF ENGINEER HESTER: -- two fences across the
12 levee in Maintenance Area 9 in the Pocket. And staff
13 reviewed it and said we would not recommend approval. And
14 so they would like to appeal that and bring it to the
15 Board.

16 SECRETARY DOHERTY: That's the area south of town
17 here --

18 CHIEF ENGINEER HESTER: Yes, it is.

19 SECRETARY DOHERTY: -- on the right-hand side of
20 the freeway up against that levee?

21 CHIEF ENGINEER HESTER: Yes.

22 SECRETARY DOHERTY: They want go over the top of
23 the levee.

24 CHIEF ENGINEER HESTER: It's the east levee of
25 the Sacramento River. There are --

1 BOARD MEMBER BURROUGHS: Do they have problems
2 with beavers?

3 No, just kidding.

4 (Laughter.)

5 BOARD MEMBER BURROUGHS: No just kidding

6 CHIEF ENGINEER HESTER: This is a privacy issue
7 where they wanted to restrict public access to the levee.
8 There are a series of fences there that the maintaining
9 agency has been dealing with. But the denial is based in
10 large part on Maintenance Area 9 objecting. But the
11 applicant has the right to make an appeal to the Board.

12 PRESIDENT CARTER: Sure.

13 BOARD MEMBER RIE: Is it technically an appeal?
14 Because I didn't know the staff could technically deny.
15 Doesn't the Board have to deny the permit?

16 PRESIDENT CARTER: I think it -- yeah, that's a
17 good question.

18 SECRETARY DOHERTY: Do they have a boat dock?

19 CHIEF ENGINEER HESTER: I'm not sure what they
20 have currently. But I'll let Steve address the
21 application and the correspondence with the applicant.

22 FLOODWAY PROTECTION ACTING CHIEF DAWSON: I'm
23 Steve Dawson.

24 We had an application come in about three or four
25 weeks ago where a person wanted to put in two cross-fences

1 on his property lines. That was there on Maintenance Area
2 9 down in the Pocket area. This area has a lot of fences
3 already. And the local maintaining agency, which is the
4 Sacramento yard, Russ Eckman has stated emphatically that
5 he wishes to see no more fences go in, as do we.

6 Now, we normally get applications like this. And
7 at a staff level, when we know that they will not be
8 approved even coming to the Board, we write of letter of
9 staff recommending denial.

10 And I issued that letter in early May. And he is
11 requesting an appeal to present his case to the Board.

12 PRESIDENT CARTER: Teri, I think your point is
13 well taken. I don't think it's an appeal. I think it's
14 a --

15 BOARD MEMBER RIE: -- hearing?

16 PRESIDENT CARTER: -- a hearing.

17 FLOODWAY PROTECTION ACTING CHIEF DAWSON: It's a
18 hearing.

19 BOARD MEMBER RIE: Okay.

20 PRESIDENT CARTER: Any other things that ought to
21 be added?

22 Yes, Steve.

23 FLOODWAY PROTECTION ACTING CHIEF DAWSON: Yes. I
24 have two more items I'd like to add to the content
25 calendar. I don't have the names, but Application 18352

1 and Application 18356.

2 BOARD MEMBER RIE: I just have a question. I
3 notice there's some new people presenting PL 84-99
4 Mitigated Neg Decs.

5 Is someone going to educate these people on what
6 they need to bring? And hopefully they'll bring final
7 documents with agency comments incorporated?

8 SECRETARY DOHERTY: And enunciation. I couldn't
9 understand some of these people today.

10 BOARD MEMBER RIE: Yes. Perhaps we should have
11 Lorraine give the staff reports.

12 (Laughter.)

13 PRESIDENT CARTER: Okay. Yeah, Jay, if you could
14 maybe establish some expectations in terms of the
15 presentation of these staff reports for these new folks,
16 that would be great.

17 EXECUTIVE OFFICER PUNIA: We will.

18 PRESIDENT CARTER: Mr. Shapiro, did you have a
19 comment for the Board on this item?

20 MR. SHAPIRO: Yes. Thank you, President Carter.

21 I'd like to advocate on behalf of the City of
22 West Sacramento that the City of West Sacramento's pending
23 application for the I Street site, which has been briefed
24 to the Board before - that's the repair of the levee
25 between the Tower Bridge and the I Street Bridge - that

1 that be included on the next agenda.

2 I've had some preliminary conversations with your
3 staff. And I think your staff felt that at the moment
4 it's not necessarily right, and they have expressed a
5 willingness to meet with West Sacramento between now and
6 the next meeting to talk about it. Since this is my only
7 opportunity to address the Board directly, I wanted to
8 take a moment to explain the importance of it.

9 This application I believe was filed in August or
10 September of last year. Due to the end-of-year confusion
11 associated with the new legislation and all the big
12 projects, it got bumped until either February or March
13 when this Board sent a 408 request letter to the Corps.
14 And that request letter is still pending with the Corps.
15 We believe that we'll see a 408 approval from the Corps in
16 early August. And our request is that the Board take it
17 up in July and consider issuing a permit subject to that
18 408 approval coming in.

19 The reason is is that simply the construction
20 timeline. We sent -- we actually issued the project for
21 bids on June 9th of this month, and the bid period ends on
22 July 9th. We've been working studiously with the Corps on
23 an EA, an environmental assessment, and FONZI, find they
24 have no significant impact. We've negotiated a notice
25 opportunity for the EA. And we expect all this to be done

1 in early August.

2 You have a July 18th meeting and an August 15th
3 meeting. And the schedule just starts getting kind of
4 tight. With an August 15th meeting, if you approve it,
5 typically we'll see the permit the following Wednesday,
6 because your staff needs to actually finalize it and get
7 it out the door. If we get it on the 20th, if we get our
8 Board together with 72-hours notice, to actually award the
9 contract, because we don't like awarding contracts until
10 we have permits, we're not awarding the contract until the
11 25th of August. Usually there's about three weeks
12 required before you get on the levee or while you're
13 approving your bonds and your insurance and you're getting
14 your mixed design for your slurry wall and getting
15 everyone to agree and getting the inspectors out. So now
16 you're starting construction on September 16th. We need
17 to be off the levees by November 1st. It's a six-week
18 construction schedule. It's doable. We'd like to not do
19 it with overtime. That's one reason.

20 The other very brief reason is your staff has a
21 lot to do. And it's having it on the agenda is what
22 generates preparing the staff report and reviewing the
23 final plans. If it isn't on the agenda till August, and
24 that review is done in August, and then we come to the
25 August meeting and you have questions or your staff has

1 questions or the Corps has questions now that it's finally
2 right, and we can't get it done, then we go to the
3 September meeting. If we go to the September meeting, we
4 probably can't construct it this year.

5 So I know it's one more for a busy agenda, but
6 we'd advocate it be included in July.

7 Thank you

8 PRESIDENT CARTER: Thank you.

9 And staff will determine whether or not -- if
10 that's appropriate, it will be on the consent or as part
11 of a hearing.

12 Anything else?

13 EXECUTIVE OFFICER PUNIA: I think Dan is -- Dan,
14 you want to address the Board on the status?

15 SUPERVISING ENGINEER FUA: Yes. I'd like to make
16 one correction from what Mr. Scott Shapiro said.

17 The 408 request letter has not been submitted yet
18 to the Corps because we have not received the required
19 technical attachments. And also we have not received any
20 updated design information, you know, in addition to what
21 we have received when we presented to you the 408 request
22 letter. So that's the reason why staff is kind of
23 hesitant to agree that this permit application be heard in
24 July.

25 EXECUTIVE OFFICER PUNIA: I think we'll evaluate

1 it and give it due consideration and then decide whether
2 it's ready for the next month agenda or not.

3 MR. SHAPIRO: I just want to note I appreciate
4 hearing that, because I wasn't aware of that. And it's
5 odd to me, because I know there was an Email exchange with
6 the Corps a week and a half ago whereby they approved the
7 design. So we may have a communication mix-up on our end.
8 And I'll get with people Monday. And if there are
9 documents that you haven't gotten, we'll make sure you get
10 them.

11 SUPERVISING ENGINEER FUA: I'll be talking with
12 Eric, and he knows that.

13 MR. SHAPIRO: Okay. Thank you.

14 BOARD MEMBER RIE: Just a question for staff.

15 I know in the past we have approved permits and
16 sometimes we agree to send a letter. And isn't it the
17 letter that triggers the requirements of the Corps; the
18 Corps typically responds back and says, "We need
19 additional information" and what exactly they want?

20 SUPERVISING ENGINEER FUA: Yes. I think this one
21 they talked to the Corps directly.

22 BOARD MEMBER RIE: Okay. Well, perhaps we can go
23 ahead and send the letter, or put the letter at least on
24 the agenda and then --

25 SUPERVISING ENGINEER FUA: The letter has been

1 approved by the Board in March. So the letter is ready.

2 BOARD MEMBER RIE: Oh, we already approved the
3 letter?

4 SUPERVISING ENGINEER FUA: Yes. We're just
5 waiting for the technical attachments

6 BOARD MEMBER RIE: Never mind.

7 EXECUTIVE OFFICER PUNIA: But the Corps has given
8 us some guidance that what type of technical information
9 they'd want to see in the package. So we are waiting for
10 that information to send the letter to the Corps.

11 BOARD MEMBER RIE: Seems like we ought to just
12 send the letter, if we approved it back in March, and let
13 the Corps respond back with what they want.

14 SUPERVISING ENGINEER FUA: Well, the 408 request
15 letter, according to the Corps's process, needs to have
16 the technical attachments to it. And that's what we've
17 been doing. So we cannot just send the letter without the
18 required attachments.

19 BOARD MEMBER RIE: Okay. I don't think we've
20 always been consistent with that.

21 SUPERVISING ENGINEER FUA: We have been
22 consistent on this one, yeah. We have held out a lot of
23 408 letters before because we're not sending it without
24 the attachments. Because that's what the Corps said, you
25 need to have those attachments ready, because that's how

1 they -- this is the basis of how they review the request.
2 Our letter is just a request. But they need the technical
3 information to say yes or no on the request.

4 PRESIDENT CARTER: I think I recall on a latest
5 408 request we've said that we approve the letter subject
6 to the staff getting the complete information and a
7 complete package and sending it on.

8 BOARD MEMBER RIE: Okay. And can we get an
9 update on where all these 104 letters are and where all
10 the 408 letters are at the July meeting? It seems like
11 we've sent out a lot of letters, going back to 2007, and I
12 haven't heard anything on some of them where they're at.
13 I'd like to get an update.

14 EXECUTIVE OFFICER PUNIA: Yeah, will do.

15 PRESIDENT CARTER: Very good.

16 Anything else?

17 Okay. Very good.

18 If there's nothing else, then, ladies and
19 gentlemen, we are adjourned.

20 (Thereupon the Central Valley Flood
21 Protection Board meeting adjourned
22 at 5:00 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing Central Valley Flood Protection Board meeting
7 was reported in shorthand by me, James F. Peters, a
8 Certified Shorthand Reporter of the State of California,
9 and thereafter transcribed into typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said meeting nor in any
12 way interested in the outcome of said meeting.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 7th day of July, 2008

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22 JAMES F. PETERS, CSR, RPR

23 Certified Shorthand Reporter

24 License No. 10063

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